

Agenda

Environmental Protection Commission

August 18, 1997

10:00 AM

Wallace State Office Building, Fourth Floor Conference Room

Public Participation

10:30 A.M.

Agenda topics

1. Approve Agenda
2. Approve Minutes of July 21, 1997
3. Director's Report Larry Wilson (Information)
4. Budget Request - Preliminary Stan Kuhn (Information)
5. Landfill Alternatives Financial Assistance Program Applications Selected Teresa Hay (Information)
6. Final Rule--Chapter 218, Waste Tire Stockpile Abatement Program Teresa Hay (**Decision**)
7. Monthly Reports Allan Stokes (Information)
8. Notice of Intended Action--Chapter 44, Drinking Water Revolving Fund Allan Stokes (**Decision**)
9. Notice of Intended Action--Chapter 50, 51, and 52, Agricultural Drainage Wells Allan Stokes (**Decision**)
10. Referrals to the Attorney General Allan Stokes (**Decision**)
 - a) A.J. DeCoster (Wright Co.)
11. *10A Proposed Contested Case Decision - Organic Technologies Corp.*
Groundwater Hydrology and Lagoons - Report Allan Stokes (Information)
12. General Discussion
13. Address Items for Next Meeting

Next Meeting Dates
September 15, 1997
October 20, 1997
November 17, 1997

ENVIRONMENTAL PROTECTION COMMISSION

Monday, August 18, 1996

NAME

COMPANY OR AGENCY

CITY

(PLEASE PRINT)

Regina Thiry		Waterloo
Cathy Woollums	MidAmerican Energy Co.	Davenport
Dale Johnson	Iowa Farm Bureau spokesman	WDR
Dwight Mayo	Stanley Lando Hunter	Muscatine
Jean Trobec	GROWMARK, Inc.	Bloomington, IL
STEVE GUYER	IES	Cedar Rapids
Brittin Witzenburg	Iowa Environmental Council	DSM
Theresa Kehoe	IOWA Senate - Demo.s	DSM
Krista Huchman	CA/O	DSM
Eugene Hurd	IDED	"
Fran Amin	IDNR	DSM
JERRY FLEABLE	BIRP	Waterloo
Angel Frey	LFB	DSM
Jane McAllister	Ahlens Law Firm	DSM
Scott Hemingway	Iowa Rural Water Association	Des Moines
Rich Keller	UHL	DSM
Chris Gault	Iowa Farm Bureau	WDSM

ENVIRONMENTAL PROTECTION COMMISSION

Monday, August 18, 1996

NAME

COMPANY OR AGENCY

CITY

(PLEASE PRINT)

BETH SHONTS

METRO WASTE AUTHORITY

DSM

Deborah Schmudlach

Brown Winick

DSM

Eldon McAfee

Bering Law Firm

DSM

RECORD COPY
File Name ADM-1-1-1 August
Sender's Initials JS 1997
EPC Meeting

MINUTES
OF THE
ENVIRONMENTAL PROTECTION COMMISSION
MEETING

AUGUST 18, 1997

WALLACE STATE OFFICE BUILDING
DES MOINES, IOWA

TABLE OF CONTENTS

Call to Order	1
Members Present	1
Members Absent.....	1
<hr/>	
Adoption of Agenda.....	1
APPROVED AS AMENDED.....	1
Approval of Minutes	1
APPROVED AS PRESENTED.....	1
Director's Report.....	2
Budget Request, Preliminary - FY 99/2000.....	2
INFORMATIONAL ONLY	3
Landfill Alternatives Financial Assistance Program Applications Selected	3
INFORMATIONAL ONLY	8
Final Rule--Chapter 218, Waste Tire Stockpile Abatement Program	9
APPROVED AS PRESENTED.....	17
Public Participation.....	17
Regina Thiry (Washburn Sewer Project)	17
Monthly Reports	18
INFORMATIONAL ONLY	34
Notice of Intended Action--Chapter 44, Drinking Water Revolving Fund	34
APPROVED AS PRESENTED.....	49
Notice of Intended Action--Chapter 50, 51, and 52, Agricultural Drainage Wells	49
APPROVED AS PRESENTED.....	57
Referrals to the Attorney General.....	58
A. J. DeCoster	58
REFERRED	59
Proposed Contested Case Decision--Organic Technologies Corporation	59
ALJ DECISION UPHELD	59
Groundwater Hydrology and Lagoons Report.....	59
INFORMATIONAL ONLY	60

General Discussion	60
Next Meeting Dates	61
Adjournment.....	61

MEETING MINUTES

CALL TO ORDER

The meeting of the Environmental Protection Commission was called to order by Chairman Ehm at 10:00 a.m. on Monday, August 18, 1997, in the Wallace State Office Building, Des Moines, Iowa.

MEMBERS PRESENT

William Ehm, Chair
Randal Giannetto (arrived 11:10 a.m.)
Rozanne King
Dean McWilliams
Charlotte Mohr, Secretary
Kathryn Murphy
Terrance Townsend, Vice-Chair
Rita Venner

MEMBERS ABSENT

Gary Priebe

Director Wilson noted that Gary Priebe is ill due to a fall, and Randal Giannetto will arrive later as he has a hearing this morning.

ADOPTION OF AGENDA

The following adjustments were made to the agenda:

- Add: Item #10a - Proposed Contested Case Decision--Organic Technologies Corp.

Motion was made by Rita Venner to approve the agenda as amended. Seconded by Terrance Townsend. Motion carried unanimously.

APPROVED AS AMENDED

APPROVAL OF MINUTES

Motion was made by Charlotte Mohr to approve the meeting minutes of July 21, 1997, as presented. Seconded by Dean McWilliams. Motion carried unanimously.

APPROVED AS PRESENTED

DIRECTOR'S REPORT

Larry Wilson, Director, distributed information about a September 5 workshop on household hazardous materials problem solving. He spoke about several national parks he visited on vacation and expanded on the condition of those parks.

BUDGET REQUEST, PRELIMINARY - FY 99/2000

Stan Kuhn, Division Administrator, Administrative Services Division, presented the following item.

Preliminary budget information will be presented at the August meeting to both the NRC and EPC for discussion purposes. Previously, in July both commissions were provided (a) a program level status report showing the FY98 budget, history for FY97, FY96 and FY95, and a separate "issues" document outlining the expected nature of staff's budget recommendations to commissioners.

Either with this brief, or shortly thereafter, each commission will be provided the following items:

Preliminary Five Year Capital Plan: The plan will be based on the following assumptions: (a) a REAP appropriation of \$9 million, (b) a Marine Fuel Tax appropriation of \$1.8 million, (c) continuing the Restore the Outdoors infrastructure appropriation of \$3 million, (d) maintaining current fee levels in Fish and Wildlife, and (e) funding levels for other programs similar to previous years.

Standard Budget Detail: Budget revenue and expenditure detail, including modified zero-based budget decision packages will be presented in a manner similar to previous years. Staff expects to recommend an increase of approximately \$1 million in the Air program to replace emission fees and hazardous waste remedial funding for the portion of the Air program other than related to the recent update of the Federal Clean Air Act. Staff will also recommend requesting an increase in the Floodplains program of 2 FTE.

Because of the increased general fund support (waste, air and livestock) within the Environmental Protection division's budget, it will be necessary to add more decision packages reflecting the division's general fund priorities.

Current Level: Other than referenced above, staff expects to recommend a budget reflecting the current level of operating and program activity.

Budgeting For Results (BFR): Each division is preparing performance or result oriented information at the "program" level. Typically, this will be a "bureau" or significant subsets within bureaus. The intent is to provide policy makers with more performance information regarding what an agency accomplishes in addition to the tradition focus on input (salaries, travel, etc.).

This is the first major attempt by the DNR to focus on performance measurement as part of the budget request process. Commissioners are encouraged to comment on the information, and suggest other performance measures or data.

Much of this information will not have been thoroughly reviewed prior to sending it to the commissions. In other words, commissioners should expect to see unresolved issues and data ~~that is subject to significant change based on further review, both at the commission and staff~~ levels. It is important to ask staff substantive questions or provide significant direction to staff in August so that the final staff recommendation to be presented in September addresses the priorities and concerns of both commissions. It is very difficult to make substantive changes in September and still meet the legal requirement of submitting the budget request by October 1.

Mr. Kuhn reviewed the preliminary budget request noting that the budget which will be presented to the General Assembly is very similar to this year's budget with exceptions for funding the Clean Air Program. He related that the department will recommend replacing the use of waived Emission Tonnage Fees and Hazardous Waste Remedial Fund with general fund money. He noted that another recommendation will be made to increase the floodplain staff by two people as there is a large backlog of construction permit applications staff are dealing with. He related that the intent would be to use some of the Storm Water Fees for these positions. He added that the department will do a process review to see if there is a more expeditious way of handling the backlog, possibly by using an electronic submittal process. Mr. Kuhn gave a presentation covering current expenditure levels and current staffing levels for each division. He discussed where changes are projected in these levels. He also discussed Department Level Priority Issues.

Discussion followed regarding various budget items and possibly hiring temp service workers.

INFORMATIONAL ONLY

LANDFILL ALTERNATIVES FINANCIAL ASSISTANCE PROGRAM APPLICATIONS SELECTED

Teresa Hay, Division Administrator, Waste Management Assistance Division, presented the following item.

For the June 1997 round of funding, the Department received for consideration twenty-six (26) applications, requesting over \$5.6 million in financial assistance. From these applications, eleven (11) were recommended for funding totaling \$1,282,338.

A summary of selected applications is attached for the Commission's information. It is anticipated that contracts will be presented to the Commission for approval at the September 1997 meeting.

LANDFILL ALTERNATIVES FINANCIAL ASSISTANCE PROGRAM

APPLICATIONS RECOMMENDED -- JUNE 1997

The following Landfill Alternatives Financial Assistance Program proposals have been selected to receive financial assistance. Twenty-six (26) applications were received requesting over \$5.6 million. Eleven (11) projects were selected to receive a total of \$1,282,338 in grants and zero interest loans.

Applicant:	Landfill of North Iowa 15942 Killdeer Avenue Clear Lake, Iowa 50428	Project Title: Wood Waste Processing Program Contact: Rob Kraemer (515) 357-5452
Award:	\$54,000 - Recycling	
Award:	Zero Interest Loan	
Description:	<p>Applicant is proposing to relocate the existing wood waste processing site closer to the active landfill site to facilitate diversion of additional waste wood and enhance the current yard waste composting operation by making additional space available that is now designated for wood waste storage. Relocating the waste wood processing site closer to the landfill gate will also result in, it is estimated, an additional 15 to 25 tons per week (total of 65 to 85 tons per week) diverted from the landfill. Once ground, the wood waste will be beneficially used on-site for mulch and erosion control. The applicant will also market processed wood as animal bedding and as mulch to the general public. The project will serve all or portions of six counties in north central Iowa. Loan assistance is offered to construct an asphalt pad serving the new wood waste processing site.</p> <p>The applicant received a \$140,000 grant in June 1991 to construct, equip and operate the existing yard waste composting site. Operations and efficiency of the composting site will improve and expand by removing stockpiled wood waste and grinding operations nearer the landfill gate.</p>	
Applicant:	Southwest 8 Senior Services, Inc. 3319 Nebraska Avenue Council Bluffs, Iowa 51501	Project Title: Reusable Meal Tray Program Expansion Contact: Phil Shehi (712) 328-2540
Award:	\$3,849 - Waste Reduction	
Award Type:	Grant	
Description:	<p>Applicant is proposing to implement a new homebound delivery program for the City of Clarinda and prevent the use of disposable meal containers at 32 congregate meal sites in an eight county area in southwest Iowa. The project will divert approximately 1,700 cubic feet from the landfill annually. Grant assistance is offered for the purchase of reusable meal trays, glasses, cups, bowls and an insulated home meal delivery bag.</p> <p>The applicant received a \$6,114 grant in June 1992 to initiate a reusable meal tray program in eight southwest Iowa Counties. This project will compliment existing programs by expanding the use of reusable meal trays within the applicant's service area and further reducing solid waste landfilling.</p>	
Applicant:	Iowa State University	

Award: Award Type: Description:	213 Beardshear Hall Ames, Iowa 50011	Project Title: Fiberboard from Recycled Wood Waste and Agricultural Residues Contact: Richard Hasbrook (515) 294-5225
	The applicant is proposing to develop the technology and demonstrate the use of wood waste and agricultural residues (i.e., corn stalks and switch grass) in the manufacture of composite wood panels for use in furniture, doors, cupboards, etc. The applicant will also develop soybean based adhesives free of the inherent problems of off-gassing from typical formaldehyde based adhesives. Upon project conclusion, the technology will be made available to all manufacturers of indoor wood furniture products. Grant assistance is offered for wages, equipment, supplies, travel and testing.	
	The applicant university has received three previous awards however, none to this project's principal investigator. The first award of \$33,400 was received in June 1991 to establish a facility to collect and compost yard waste from ISU buildings and grounds. Composted materials are used for research and grounds application. The second award of \$150,946 was received in December 1995 for the purpose of developing engineering and construction guidelines for drainage structures (i.e., french drains and culverts) composed of large-sized shredded tires and whole tires respectively. The third award of \$57,025 was also received in December 1995. This research project involves determining the agronomic benefits of water treatment lime sludge as an alkaline stabilizer, effects on plant growth and crop yields (corn and soy beans). The current project continues the necessary research to develop technologies that allow improved and increased use of waste materials in the manufacture of recycled content products.	

Applicant:	Iowa Northland Regional Council of Governments 501 Sycamore Street, Ste. 333 Waterloo, Iowa 50703	Tellus Institute 11 Arlington Street Boston, Massachusetts 02116-3411
Award: Award Type: Description:	\$68,467 - Education Grant	Project Title: Full Cost Accounting For Integrated Solid Waste Management Contact: Jeff Beneke (319) 235-0311 -- INRCOG Contact: David McNulty (617) 266-5400 -- Tellus Institute
	The applicants are proposing to build upon the Department sponsored WastePlan seminar and full cost accounting (FCA) workshops by focusing on the demonstration and implementation of FCA in five Iowa municipalities (Waterloo, Waverly, Independence, Evansdale and Cedar Rapids). WastePlan, a computer software program and previous LAFA funded demonstration project, will be used as the framework within which the demonstration municipalities will implement FCA. The use of WastePlan and FCA principals will assist in solid waste management planning, pricing and program performance. Grant assistance is offered for wages, travel, and supplies.	
	Iowa Northland Regional Council of Governments has not received previous funding through this program.	
	Tellus Institute received a \$78,354 grant in June 1996 to introduce and demonstrate the use of WastePlan to track, solid waste generation, solid waste landfilling, develop new and modify existing solid waste management programs. Pilot programs were implemented in four Iowa solid waste planning areas. This project will expand on the previous project by incorporating full cost accounting principals as part of integrated solid waste management practices and	

_____ accountability.

Applicant:	Cherokee County Solid Waste Commission 1805 Linden Street Cherokee, Iowa 51012	Project Title: Regional Recycling Program Expansion
Award:	\$83,758 - Recycling	Contact: Dennis Henrich (712) 225-3749
Award Type:	Zero Interest Loan	
Description:	<p>The applicant is proposing to construct a building addition to process and receive additional recyclable materials from the three county planning area. Additional drop boxes will be placed in Cherokee County and a drop-off program will be initiated in Plymouth County. recyclable materials collected from both Counties and Buena Vista County will be delivered to the expanded processing facility. The facility will accept an additional 4,000 tons per year of recyclables. Financial assistance is offered to assist in the construction of the new processing building.</p> <p>The applicant received a \$375,000 grant in June 1988 to construct and equip a facility for the mechanical and manual separation of recyclables (metals, plastic and fibre) from mixed solid waste. Since the time of this award, Cherokee County has also implemented a drop-off collection program for recyclables to facilitate recovery. The combination of the drop off program and the mechanical recovery of recyclables from mixed solid waste has increased the amount of recyclables processed. The proposed project will support the previous funded project, improve recycling processing operations and worker safety and allow receiving recyclables from the new Plymouth County collection program.</p>	

Applicant:	Jendro Sanitation Services 108 Development Drive Charles City, Iowa 50616	Project Title: Floyd Rural Curbside Recycling Pilot Project
Award:	\$63,985 - Recycling	Contact: Alan Powell (515) 228-3525
Award Type:	Grant - \$4,275 Zero Interest Loan - \$59,710	
Description:	<p>Applicant is proposing to develop and implement an efficient and economical, one pass co-collection program for trash and recyclables from homes and businesses in sparsely populated rural areas of north central Iowa. Small incorporated and unincorporated communities of less than 100 households will be targeted along with rural waste generators. It is estimated that 53 tons of recyclables will be collected during the 30 week pilot program. The project will be funded in two phases. Phase I will involve an interest survey, rural waste generator waste audits, project education and promotion. If determined feasible, Phase II will be implemented and involve vehicle modification to allow co-collection, purchase collection bins and initiate the pilot project. Materials will be transported to a previous LAFA funded recycling center for processing and marketing. Financial assistance is offered for equipment, collection vehicle and materials processing.</p> <p>The applicant has not received previous funding through this program.</p>	

Applicant:	North Central Correctional Facility 313 Lanedale Rockwell City, Iowa 50579	Project Title: Recovery and Reuse of Building Materials
Award:	\$183,653 - C&D Recycling	Contact: John Thalacker

Award Type: Zero Interest Loan
Description: The applicant is proposing to use inmate labor to deconstruct buildings and recover building materials for reuse and recycling in all or portions of seven west central counties. Materials will also be accepted from outside contractors and home owners. A manual will be developed outlining actual deconstruction techniques and steps that must be taken to properly combine the need for this type of waste management with local economic development efforts. The applicant has targeted 85% of each individual building deconstruction project be recovered for recycling and reuse. The project provides meaningful work and job training skills for inmates while providing communities economic development opportunities through removal of unusable buildings. Grant assistance is offered for equipment, labor, and storage building construction.

The applicant has not received previous funding through this program.

Applicant: R.S. Bacon Veneer Company
 Highway 14 and 175
 Grundy Center, Iowa 50638

Project Title: Waste Wood As A Fuel Source

Award: \$289,936 - Combustion With **Contact:** Joe Darter (319) 824-6991
 Energy Recovery

Award Type: Zero Interest Loan

Description: The applicant is proposing to install a wood fired boiler system for production of steam required in the manufacture of veneer. Use of wood waste will reduce the company's need for natural gas by as much as 90% while diverting over 1,000 tons of material per year from the landfill for beneficial reuse. Applicant has estimated an approximate \$11,000 per month reduction in fuel costs once fully operational. Financial assistance is offered for building construction and equipment.

The applicant has not received previous funding through this program.

Applicant: Artistic Waste Services, Inc.
 1817 Euclid Avenue
 Des Moines, Iowa 50313

Project Title: Commercial Food Waste Collection System

Award: \$298,550 - Organics Recycling **Contact:** Tony Colosimo (515) 262-4040

Award Type: \$149,275 - Grant \$149,275 - Zero Interest loan

Description: The applicant is proposing to implement a dedicated organic waste collection system that will initially divert approximately 4,000 to 5,000 tons and potentially up to 11,000 tons of organic wastes from the landfill. Collected organics will be delivered to the Metro Waste Authority Compost Center, a previous LAFA award recipient, for processing and composting annually. The organic waste stream will be collected from such generators as grocery stores, schools, organics manufacturing and eating and drinking establishments. The project will be funded in two phases. Phase I will involve surveying organic waste generators, assess waste availability, educate/promote the project and obtain participation commitment. Phase II involves procuring equipment and implementing the collection program. Financial assistance is offered for a collection vehicle, containers, wages, supplies and operation and maintenance costs.

The applicant has not received previous funding through this program.

Applicant: Iowa Northland Regional Council of Governments

Award: Award Type: Description:	501 Sycamore Street, Ste. 333 Waterloo, Iowa 50703	Project Title: Recycling Handbook Contact: Jeff Beneke (319) 235-0311
	<p>\$15,045 - Education Grant</p> <p>Applicant is proposing to develop and distribute a waste reduction and recycling handbook targeting households, business and industry in Black Hawk, Bremer and Buchanan Counties. The handbook will serve as a comprehensive source of information on recycling, backyard composting, household hazardous material storage and disposal options, safer alternatives, etc. relevant to the three county INRCOG service area. Financial assistance is offered for handbook printing.</p>	
	The applicant has not received previous funding through this program.	

Applicant:	ABC Plastics 2148 HWY. 22 W PO Box 990 Kalona, Iowa 52247	Project Title: Recycled Plastics Processing Improvement Contact: Cloyce Palmer (319) 656-2112
Award: Award Type: Description:	<p>\$57,749 - Recycling</p> <p>Zero Interest Loan</p>	
	<p>The applicant is proposing to expand their ability to process additional types, sizes and quantities of recycled plastics. Applicant has identified 1,500 tons per year of plastic wastes available from six counties in east central Iowa alone, but will receive plastic waste from generators statewide. The applicant produces recycled plastic dimensional lumber, plastic pallets and plastic plywood. Applicant generated waste stubs, butts and off-spec lumber is currently shipped to Chicago for grinding and reuse. The ability to grind waste plastic locally will benefit several industrial plastic waste generators by reducing disposal costs, provide the opportunity to reuse industrial plastic waste in their manufacturing process and will support efforts of Iowa Waste Exchange representatives in recycling and reusing waste materials. Financial assistance is offered for the purchase of equipment that will allow the applicant to grind in-house waste plastic, receive additional types of waste plastic and perform custom grinding.</p>	
	<p>The applicant has not received previous funding through this program. However, a \$93,000 grant was awarded in December 1993 to the former owner of Aldan Lane Company which has been purchased by the applicant. The previous award was used to install an additional plastic lumber production line thereby improving operating efficiency and increase production.</p>	

Ms. Hay briefly reviewed the various applications.

Discussion followed regarding status of the ISU grant; some facilities receiving grants or loans for the third or fourth time; and ABC Plastics taking in material from outside of the six county area.

Ms. Hay explained that each application is judged on it own merit as to whether it is a good project or not, and some facilities do receive more than one grant or loan, in separate rounds.

INFORMATIONAL ONLY

FINAL RULE--CHAPTER 218, WASTE TIRE STOCKPILE ABATEMENT PROGRAM

Teresa Hay, Division Administrator, Waste Management Assistance Division, presented the following item.

The attached rules establish the criteria which the department will follow for prioritizing waste tire stockpile abatement projects, requirements for owners or operators of nuisance stockpile sites, procedures for awarding stockpile abatement and waste tire processing contracts, and guidelines that the department may use to seek cost recovery for stockpile abatement activities. These rules have been developed pursuant to the authority of Iowa Code section 455D.11C.

A total of approximately \$7 million will be available for these contract awards, to be disbursed from a waste tire management fund established within the state treasury for fiscal years 1997-2002.

Notice Of Intended Action was published in the IAB on June 18, 1997 as ARC 7310A. A public hearing was held for the purpose of receiving written and oral comments on the proposed rule. The hearing was held on July 10, 1997 at 1:00 p.m., in the Wallace State Office Building, 502 E. 9th St., Des Moines, Iowa. One written comment was received prior to the hearing; no oral comments were received at the hearing. The public participation responsiveness summary for the rule is attached.

The proposed final rule presented does not contain any corrections or changes from the notice of intended action. At this time the Commission is requested to approve IAC Chapter 218.

ENVIRONMENTAL PROTECTION COMMISSION [567]**Adopted and Filed**

Pursuant to Iowa Code section 455D.11C, the Environmental Protection Commission hereby adopts Chapter 218, "Waste Tire Stockpile Abatement Program," Iowa Administrative Code.

This new chapter provides for the awarding of contracts to eligible contractors for the processing of waste tires from existing waste tire stockpiles. The chapter will also establish the criteria which the Department will follow for prioritizing waste tire stockpile abatement projects, requirements for owners or operators of nuisance stockpile sites, procedures for awarding stockpile abatement contracts, and guidelines that the Department may use to seek cost recovery for stockpile abatement activities.

Notice of Intended Action was published in IAB on June 18, 1997 as ARC 7310A. A public hearing was held on July 10, 1997. Written and oral comments were accepted from the public at this time.

There are no changes as a result of the public hearing.

These rules are intended to implement Iowa Code section 455D.11C.

These rules will become effective October 15, 1997.

The following new chapter is adopted.

CHAPTER 218
WASTE TIRE STOCKPILE ABATEMENT PROGRAM

567--218.1(455D) Goal. The goal of this program is to abate waste tire stockpiles that pose a nuisance to the environment or to public health, safety or welfare, through the awarding of ~~contracts by the department.~~

567--218.2(455D) Purpose. The purpose of this chapter is to establish the process for the use of available funds to implement a waste tire stockpile abatement program. This chapter establishes the criteria which the department will follow for prioritizing waste tire stockpile abatement projects, requirements for owners or operators of nuisance stockpile sites, procedures for awarding stockpile abatement contracts, and guidelines that the department may use to seek cost recovery for stockpile abatement activities.

567--218.3(455D) Definitions. As used in this chapter:

“Abatement” means the processing or removal of waste tires from nuisance stockpiles with delivery to an approved processing site or site of end use.

“Abatement fund” means that portion of the waste tire management fund allocated for stockpile abatement activities pursuant to Iowa Code section 455D.11C.

“Department” means Iowa department of natural resources.

“Nuisance” means an unreasonable danger to public health, safety or welfare, or the environment.

“Operator” means the person responsible for the overall operation of the stockpile site including the care, custody or control of the waste tires located at the site.

“Owner” means a person who owns, in whole or in part, the waste tires located at a stockpile site, or the land on which the stockpile is located. "Owner" includes one who holds an interest in the property on which the stockpile is located, as in the case of a lessee.

“Permittee” means a person who has been issued a waste tire processing or storage permit by the department pursuant to 567--Chapter 117.

“Processing” means producing or manufacturing usable materials from waste tires.

“Processing site” means a site which is used for the processing of waste tires and which is owned or operated by a tire processor.

“Site of end use” means a site where whole or processed waste tires are recycled or reused in a beneficial use as authorized by the department.

“Stockpile” means an accumulation of waste tires at a site which is used for the storage, collection, or processing of waste tires. The stockpile may or may not be a facility currently permitted by the department.

“Tire collector” means a person who owns or operates a site used for the storage, collection or deposit of more than 500 waste tires.

“Tire processor” means a person who reduces waste tires into a processed form suitable for recycling or for manufacturing usable materials from waste tires including producing a fuel product for energy or heat. "Tire processor" does not mean a person who retreads tires or processes and stores tires.

“Waste management assistance division” means the waste management assistance division of the department of natural resources established by Iowa Code section 455B.483.

“Waste tire,” as defined in Iowa Code section 455D.11, means a tire that is no longer suitable for its originally intended purpose due to wear, damage, or defect. “Waste tire” does not include a nonpneumatic tire.

“Waste tire collection site” means a site which is used for the storage, collection, or deposit of waste tires owned or operated by a tire collector.

567--218.4(455D) Role of the department of natural resources. The department is responsible for determining abatement priorities, for initiating and ensuring the completion of abatement actions, for the administration of funds awarded to waste tire processors or contractors under these rules, and for contractor selection and contract monitoring. The department will ensure that funds disbursed meet guidelines established in Iowa Code section 455D.11C.

567--218.5(455D) Existing authority. This chapter does not change the authority of the department to enforce any existing applicable laws or regulations including waste tire processing or collection requirements stipulated in 567--Chapter 117.

567--218.6(455D) Funding source. The department will use that portion of the waste tire management fund available for stockpile abatement pursuant to Iowa Code section 455D.11C, beginning in fiscal year 1997 through fiscal year 2002, to fund the activities of the program set forth in this chapter.

567--218.7(455D) Applicability. This chapter applies to owners or operators of permitted and unpermitted waste tire stockpile sites located within Iowa containing 500 or more waste tires, either on one property or on numerous properties under their ownership, management or control, which are determined by the department to be a nuisance.

567--218.8(455D) Abatement fund priorities. The department may use the abatement fund to abate any nuisance created by waste tires at a stockpile site. The department shall follow the criteria in rule 218.9(455D) and the priorities set forth in this rule for determining which sites shall be subject to abatement.

218.8(1) Primary use.

a. First priority for the department’s use of the abatement fund shall be to issue contracts for the removal or processing of all waste tires that can be reasonably recovered from stockpile sites determined by the department to be a nuisance. For this purpose the department may use funds for abating stockpile sites including, but not limited to, the following:

(1) A stockpile site for which the owner or operator has failed to apply for or obtain waste tire processing or storage permit;

(2) A stockpile site where the owner or operator has failed to remove the waste tires as required by the department;

(3) A permitted waste tire collection site if the permittee fails to meet the conditions of such permit;

(4) A permitted waste tire processing site where the owner or operator has ceased processing waste tires.

b. Abatement activities related to this subrule shall require the owner or operator of the site to enter into a letter of agreement or contract with the department, or to comply with an abatement order issued by the department, any of which shall include the stipulation that the site will no longer be used for collecting, storing or processing waste tires.

~~c. Procedures for using abatement funds for projects referenced in this subrule are described in rule 218.10(455D).~~

218.8(2) Secondary use. In using the abatement fund, the department may consider issuing a contract for the purpose of abating a nuisance that has caused a permittee of a waste tire processing site to be in noncompliance with the conditions of the facility's permit. In such cases, it is the intention of the permittee to continue processing waste tires at the site, and the extent of the abatement would be only to process or remove a quantity of waste tires sufficient to mitigate the conditions that caused the site to be in noncompliance. The procedure for using the abatement fund for such projects is described in rule 218.11(455D).

567--218.9(455D) Abatement site determination criteria. This rule establishes the criteria that the department shall follow in determining which sites will be subject to abatement, including the criteria for determining the degree of nuisance posed by stockpiles.

218.9(1) Size of stockpile. Stockpile sites will be placed into the following categories based on the number of waste tires present at each site:

- a. Sites with 50,000 or more waste tires receive first priority;
- b. Sites with at least 10,000 waste tires but less than 50,000 waste tires receive second priority;
- c. Sites with at least 500 waste tires but less than 10,000 waste tires receive third priority.

218.9(2) Nuisance criteria. For the purposes of abatement, sites within each priority category specified in subrule 218.9(1) shall be ranked according to the degree of nuisance posed by each site as determined by the following evaluation criteria.

a. Susceptibility to fire. The department's evaluation shall consider characteristics of the stockpile which constitute a fire hazard, such as the absence of fire lanes, lack of emergency control equipment, presence of easily combustible material or activities which could cause the pile to ignite, and lack of site access control.

b. Risk to the environment or to public health, safety or welfare. The department's evaluation shall consider characteristics of the stockpile which might constitute a danger to the environment or to public health, safety or welfare. Such characteristics include, but are not limited to, proximity to surface waters or to other environmentally sensitive areas, proximity to population concentrations, especially susceptible populations such as hospital patients, proximity to property owned by a third person, susceptibility to mosquito infestation, proximity to public or private water wells, and visibility from public roadways.

c. Other special conditions. After ranking sites in each priority category specified in subrule 218.9(1) in terms of the evaluation criteria specified in paragraphs 218.9(2)"a" and 218.9(2)"b," the department may further prioritize the sites by considering other special conditions. Such conditions may include a local fire district's or a local governmental agency's

determination that deems the site to be a danger or nuisance, or an environmental concern justifying prompt abatement action.

218.9(3) Discretionary. In the process of contracting for nuisance abatement activities, the department may combine the cleanup of stockpiles that rank lower than other potential abatement sites if these sites are located in the general area of a site that ranks high as determined by the criteria specified in subrules 218.9(1) and 218.9(2) and if in the department's judgment this action would be a more cost-effective and expeditious use of abatement funds.

~~**218.9(4) Financial considerations.** In determining its order of priority for stockpile abatement activities, the department may justify contracting for the cleanup of lesser priority sites if either of the following conditions applies.~~

a. Moneys available in the abatement fund pursuant to rule 218.6(455D) are not sufficient to address the current highest priority site as ranked by the department. Under these circumstances, the department may conduct abatement activities at a lesser ranked site or sites whose estimated abatement costs coincide with available funding.

b. Under the limited funding circumstances described in paragraph 218.9(4)"a," and where the owner or operator of a nuisance stockpile is willing to provide a cost share for the abatement of the site, the department may conduct abatement activities at a lesser ranked site if the estimated abatement costs coincide with available funding as supplemented by the owner or operator of the site through a negotiated settlement.

567--218.10(455D) Procedures for use of abatement funds through an abatement order or negotiated settlement. This rule defines the procedures for the use of the abatement fund described in subrule 218.8(1).

218.10(1) Initial notification. If the department determines that a stockpile is a nuisance and ranks relatively high as determined by the criteria in rule 218.9(455D), it shall give notice to the owner or operator deemed responsible for the nuisance of the department's intent to proceed with abatement action at the site. The department's proposed abatement action plan shall be specified in the notice. The person notified shall be required to respond to the notice within a specified period.

a. If the person notified fails to respond within the specified time period or the response does not affirm agreement and willingness to cooperate with the department's proposed abatement action plan, and such person is not the owner of the property on which the stockpile is located, the department will send the abatement notice to the property owner.

b. If the person or persons notified including the owner of the property fail to respond to the notice or the response does not affirm agreement and willingness to cooperate with the department's proposed abatement action plan, the department shall issue an abatement order. The abatement order procedure is described in subrule 218.10(2).

c. If the person or persons notified respond to the initial notice within the specified time period and affirm agreement and willingness to cooperate with the department's proposed abatement action plan, the department may enter into a negotiated settlement with any or all of the applicable parties. The procedure for using abatement funds by negotiated settlement is described in subrule 218.10(3).

218.10(2) Abatement order. Pursuant to paragraph 218.10(1)"b," the department may issue an abatement order requiring the owner or operator of the stockpile site to comply with the department's abatement action plan.

a. The department may take any action necessary under its authority to abate the nuisance including entering the property where the stockpile is located, confiscating the waste tires into public custody, and providing for their removal and processing.

b. To carry out a nuisance abatement order, the department may refer a nuisance owner or operator to the attorney general for further enforcement action.

c. Through the abatement order, the department may bring an action or proceeding to recover any reasonable and necessary expenses incurred by the department in conducting the abatement action as provided in rule 218.12(455D).

d. The abatement order shall include conditions which place limitations on the use of the site for waste tire storage, collection or processing activities during or following completion of the abatement action. Violation of these conditions shall be cause for the department to seek recovery of expenses, as provided in rule 218.12(455D), and to pursue other appropriate legal actions as stipulated in the abatement order.

218.10(3) Negotiated settlement. Pursuant to paragraph 218.10(1)"c," the department may enter into a negotiated settlement with any or all of the applicable parties through a letter of agreement. The letter of agreement stipulates the terms of the negotiated settlement which may include, but are not limited to, the following:

a. Consent to allow the department and its employees, agents, and contractors to enter the property and remove, or to process and remove, all waste tires which can be reasonably recovered from the site as determined by the department. This consent applies to all areas of the property and structures therein associated with the stockpiled waste tires.

b. Consent to allow open access to the stockpile property shall extend to such time as is necessary for the investigation, preparation, and completion of the nuisance abatement.

c. If so determined by the department or if part of the negotiated settlement, the applicable parties' share of the total abatement cost and terms of payment shall be specified. In determining if a cost share is appropriate and ascertaining the amount of a cost share, the department shall consider the cost recovery factors described in subrule 218.12(3). The letter of agreement's description of the cost share that the applicable parties agree to pay to the department may be based on either a specified sum of money or a percentage of the department's final costs incurred in the abatement action.

d. A statement that the applicable parties will henceforth not use the site for temporary or permanent waste tire collection, storage, or processing. Any subsequent collection or dumping of waste tires on the stockpile property site, regardless of source, shall be the sole liability of the applicable parties as long as they continue to have ownership or an interest in the property as determined by the department. The applicable parties shall be responsible for immediate abatement and removal of such waste tires.

e. A provision that any violation of the conditions stipulated in the letter of agreement shall be cause for the department to seek recovery of expenses, as provided in rule 218.12(455D), and to pursue other appropriate legal actions as stipulated in the letter of agreement.

567--218.11(455D) Procedure for use of abatement fund at a permitted waste tire processing site. This rule defines the procedure for the use of the abatement fund described in subrule 218.8(2). The department may determine that abatement funds should be made available to abate a nuisance that has caused a permittee of a waste tire processing site to be in

noncompliance with the conditions of the facility's permit. In such cases the extent of the abatement would be only to process or remove a quantity of waste tires sufficient to mitigate the conditions that caused the site to be in noncompliance.

218.11(1) A contract providing financial assistance for abating a nuisance at a permitted waste tire processing site may be entered into between the department and the permittee if the following conditions are met:

a. The site ranks relatively high in the nuisance criteria described in subrule 218.9(2).

~~b. The permittee submits to the department a compliance plan that shall include:~~

(1) A detailed description of the specific issues and circumstances that have caused the permittee to be in noncompliance;

(2) A detailed description of the permittee's proposed actions, including how the tires will be processed and removed to a site or sites of end use;

(3) A description of the site or sites of end use that will be used;

(4) A time schedule for processing and removing the waste tires which includes specific milestones;

(5) An estimate of the net cost of processing and removing waste tires to a site or sites of end use, by utilizing the most cost-effective alternative. This estimate must be documented. The department may require the permittee to include three bids competitively obtained from responsible contractors for the proposed abatement action.

c. The plan receives approval from the department.

218.11(2) Financial assistance provided through the contract may be in the form of a grant equal to a percentage of the total funding needed to complete the project, a zero interest loan for total or partial funding of the project, or a combination of the two. Terms of payment or repayment shall be specified in the contract. Final payment to the permittee shall be withheld until the department's final inspection and confirmation that the nuisance abatement has been completed in accordance with the approved compliance plan and, if appropriate, until the department receives written documentation satisfactory to the department that the permittee's share of the costs has been paid. In determining the type and amount of financial assistance to provide to the permittee, the department shall consider the cost recovery factors described in subrule 218.12(3).

218.11(3) A permittee may receive financial assistance through the waste tire stockpile abatement program for no more than one project.

567--218.12(455D) Abatement cost recovery. The abatement fund may be reimbursed through the recovery of expenses and cost-share mechanisms described in this rule.

218.12(1) Recovery of expenses. Pursuant to rules 218.10(455D) and 218.11(455D), the department may bring an action or proceeding to recover any reasonable and necessary expenses incurred by the department for stockpile abatement activities. The department may ask the attorney general to initiate a civil action to recover such expenses. The department's certification of expenses shall be prima facie evidence that the expenses are reasonable and necessary. In general, the department will consider that the person or persons who were the subject of an abatement action conducted by the department under this chapter to be responsible for repaying the department for the full costs of the abatement.

218.12(2) Owner or operator cost share for abatement activities. Pursuant to rules 218.10(455D) and 218.11(455D), the department may include cost-share or repayment

provisions in letters of agreement, contracts, or other legal instruments associated with the department's stockpile abatement actions.

218.12(3) Cost recovery determination factors. In its determination whether to initiate actions or proceedings for recovery of expenses, and in determining the extent of expenses subject to recovery or cost sharing by the applicable parties, the department may consider the following factors:

- a. The total actual cost or estimated cost of the abatement action.
- ~~b. Whether the owner or operator responsible for the nuisance received compensation for~~
the collection, transportation or storage of the waste tires.
- c. Whether the owner or operator responsible for the nuisance has paid or is paying a portion of the costs to abate the nuisance.
- d. Whether the owner or operator responsible for the nuisance is financially able to pay a portion of the costs to abate the nuisance. This determination may be based upon the submittal of state and federal tax returns for the past three years, statement of net worth, and similar documentation.
- e. Whether the person responsible for the nuisance is the owner of the property where the stockpile is located.
- f. Whether the owner of the property received compensation for the waste tires received at the stockpile site.
- g. Whether the owner or operator responsible for the nuisance knowingly violated rules or statutes relating to waste tires.

218.12(4) Abatement fund reimbursement. Any money from the abatement fund expended by the department for costs related to stockpile abatement activities and later recovered by the department through the mechanisms described in this rule shall be credited to the abatement fund.

567--218.13(455D) Abatement contracts.

218.13(1) With the exception of a permitted waste tire processor who receives abatement funds for mitigating a nuisance at the permittee's site, as described in rule 218.11(455D), all contracts for abatement projects shall be awarded to eligible firms through a competitive bidding process. Firms placed on a qualified bidders list will receive a request for proposals for abatement projects at sites determined by the department. In selecting contractors the department shall use criteria that include, but are not limited to, the following:

- a. Professional, financial and technical qualifications;
- b. Stockpile abatement experience;
- c. End markets for the waste tires removed and processed under the abatement action;
- d. Capability to perform defined scope of work within specified timeframe; and
- e. Cost of service.

218.13(2) In order for consideration of any stockpile abatement contract awards, a prospective contractor must be in compliance with all applicable provisions of local, state, and federal regulations, including the department's waste tire storage, collection, and processing requirements as set forth in 567-- Chapter 117. There also must not be any current or pending enforcement actions against the prospective contractor. If such actions exist, the firm is ineligible to receive contract awards under this program.

218.13(3) Under this rule, any contractor found to be providing unsatisfactory service during a contract period, as determined by the department, may be ineligible for award of a subsequent contract.

These rules are intended to implement Iowa Code section 455D.11C.

Date

Larry J. Wilson, Director

(A copy of the Responsiveness Summary is on file in the department's Records Center)

Ms. Hay reviewed details of the rule.

Charlotte Mohr asked where the cleanup will start.

Ms. Hay stated that staff are currently working on developing a priority list.

Charlotte Mohr asked if OTHO or Rosebar will be on the list.

Ms. Hay replied that OTHO will be on the list, but Rosebar had a permit at the time the survey was done so it will not be on the list.

Motion was made by Rozanne King to approve Final Rule--Chapter 218, Waste Tire Stockpile Abatement Program. Seconded by Dean McWilliams. Motion carried unanimously.

APPROVED AS PRESENTED

PUBLIC PARTICIPATION

Regina Thiry (Washburn Sewer Project)

Regina Thiry, Waterloo, updated the Commission on the Washburn sewer project noting that she recently attended the Black Hawk County Board of Supervisors meeting and they said they do not have any wetland plans at this time. She noted that the county is going ahead with the construction project without a Certificate of Adequacy of Treatment, and the thought is they will go back later on and get the Certificate. She expressed concern that no one will tell her what the plans are for the discharge from the sewage lagoon. She spoke about the government changing policy on requesting a Certificate of Adequacy of Treatment. In conclusion, she asked the Commission if there is anyway they can tell Black Hawk County they cannot discharge until they have the actual Certificate of Adequacy of Treatment and wetland plans have been developed and approved.

Chairman Ehm asked Mrs. Thiry if she received a copy of a letter from Al Stokes which answered the questions she posed at the last Commission meeting.

Mrs. Thiry replied that she received the letter and it did answer some of her questions. She discussed her property being classified as class A.

Rozanne King asked for clarification about the EPA and the Certificate of Adequacy of Treatment, and also the NPDES permit.

Mr. Stokes stated that the delegation for issuance of NPDES permits has been given to Iowa. He noted that the issue about the Adequacy of Treatment Certification relates primarily to the release of federal funds. Iowa has been delegated the authority to issue the NPDES permit and has issued those permits. He related that as far as the State of Iowa is concerned, the department believes the Washburn facility will adequately treat the wastewater for discharge. He noted that this is a two pronged tract, one is in terms of issuance of the permit for the actual construction and the discharge. The department has done that and believes it is adequate treatment. The other function is between the federal EDA and the federal EPA in terms of whether or not the EDA ever releases the federal funding for the project. He noted that the department has not been delegated authority for that kind of sign-off when it comes to federal funding. As far as the DNR is concerned, the way the two relate (EDA and EPA) is a matter between them in terms of the types of sign-off. Mr. Stokes stated that if EPA feels the State of Iowa has erred in its issuance of its NPDES, they have the ability to step in and take their own action. He added that the permits are appropriate, the facility is appropriate, and it is a matter of whether the county will receive funds from the federal government.

MONTHLY REPORTS

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

The following monthly reports are enclosed with the agenda for the Commission's information.

1. Rulemaking Status Report
2. Variance Report
3. Hazardous Substance/Emergency Response Report
4. Enforcement Status Report
5. Contested Case Status Report

Members of the department will be present to expand upon these reports and answer questions.

RULEMAKING STATUS REPORT August 1, 1997

PROPOSAL	NOTICE TO COMM.	NOTICE PUBLISH	RULES REVIEW COMM.	HEARING	FINAL SUMMARY TO COMM.	RULES ADOPTED	RULES PUBLISH	RULES REVIEW COMM	RULE EFFECTIVE
1. Ch. 22, 23 - Air Quality-									

Emission Guidelines for Municipal Solid Waste Landfills	2/17/97	3/12/97	4/08/97	4/11/97	6/16/97	6/16/97	7/16/97	8/11/97	*8/20/97
2. Ch. 44 - Drinking Water Revolving Fund	8/18/97	*9/10/97	*10/07/97	*10/ /97	*11/17/97	*11/17/97	*12/18/97	*1/06/98	*1/21/98
3. Ch. 50, 51, and 52 - Agricultural Drainage Wells	8/18/97	*9/10/97	*10/07/97	*10/ /97	*11/17/97	*11/17/97	*12/18/97	*1/06/98	*1/21/98
4. Ch. 64 - General Permits -- Stormwater	6/16/97	7/16/97	8/11/97	8/07/97	*9/15/97	*9/15/97	*10/08/97	*11/10/97	*11/12/97
5. Ch. 65 - Animal Feeding Operations	7/21/97	*8/13/97	*9/08/97	-----	*10/20/97	*10/20/97	*11/19/97	*12/08/97	*12/24/97
6. Ch. 211 - Grants for Regional Collection Centers	6/16/97	7/16/97	8/11/97	8/08/97	*9/15/97	*9/15/97	*10/08/97	*11/10/97	*11/12/97
7. Ch. 213 - Packaging --- Heavy Metal Content	5/19/97	6/18/97	7/08/97	7/08/97	*9/15/97	*9/15/97	*10/08/97	*11/10/97	*11/12/97
8. Ch. 214 - Household Hazardous Materials Program	6/16/97	7/16/97	8/11/97	8/08/97	*9/15/97	*9/15/97	*10/08/97	*11/10/97	*11/12/97
9. Ch. 218 - Waste Tire Stockpile Abatement Program	5/19/97	6/18/97	7/08/97	7/10/97	8/18/97	*8/18/97	*9/10/97	*10/06/97	*10/15/97

VARIANCE REPORT July 1997

No.	Facility	Program	Engineer	Subject	Decision	Date
1	Belle Plaine-Joan Stanek	Air Quality		Structures	Approved	07/23/97
2	Tenneco-City of Conrad	Air Quality		Permit Requirements	Approved	07/20/97
3	Colo, City of	Wastewater	MER Engineering	Inlet Discharge Depression	Approved	07/27/97
4	Muscatine, City of	Wastewater Construction	Stanley Consultants	Bar Racks	Approved	07/14/97
5	Peosta, City of	Wastewater	Buesing & Associates	Minimum Sewer Size	Approved	07/03/97
6	Top of Iowa Welcome Center-Worth County	Wastewater	Jones, Haugh, & Smith	Lagoon Multi-Level Drawoffs	Approved	07/10/97
7	Top of Iowa Welcome Center-Worth County	Wastewater	Jones, Haugh, & Smith	Inlet Discharge Depression	Approved	07/15/97
8	Webster City, City of	Wastewater	Rust Environment & Infrastructure	Sewer Grade	Approved	07/31/97
9	Aluminum Company of America-Davenport	Wastewater	Anita M. Berry, ALCOA	Monitoring Frequency	Approved	07/03/97
10	Dolliver State Park-Webster County	Watersupply	Advanced Engineering	Construction Materials	Approved	07/08/97
11	Kammerer Trailer Court-Muscatine County	Watersupply	Martin & Whitacre Surveyors & Engineers	Siting Criteria	Approved	07/15/97

Monthly Spill Report - July 1997

From July 1, 1997, through July 31, 1997, 81 reports of hazardous conditions were forwarded to the central office.

Month	Total Incidents	Petroleum Product	Agri - Chemical	Other Chemicals	Handling and Storage	Pipe-line	Highway Incident	RR Incident	Fire	Other
Oct.	52(64)	28(37)	10(9)	14(18)	31(21)	0(0)	13(35)	4(3)	0(1)	4(4)
Nov.	33(52)	18(34)	9(7)	6(11)	16(25)	0(4)	12(21)	2(1)	0(0)	3(1)
Dec.	33(56)	20(30)	3(11)	10(15)	16(28)	1(2)	12(21)	0(2)	1(1)	3(2)
Jan.	39(42)	28(18)	49(10)	7(14)	20(24)	1(0)	15(13)	2(1)	0(0)	1(4)
Feb.	54(55)	29(36)	7(11)	18(8)	29(37)	2(1)	20(12)	1(2)	2(1)	0(2)
Mar.	53(59)	37(44)	9(6)	7(9)	29(29)	0(0)	16(28)	4(0)	0(0)	4(2)
Apr.	64(93)	33(41)	25(37)	6(15)	28(37)	0(1)	30(36)	2(3)	0(2)	4(14)
May	103(100)	35(46)	53(34)	15(20)	33(31)	2(2)	61(58)	4(1)	1(0)	2(8)
Jun.	81(67)	42(38)	20(19)	19(10)	49(26)	3(3)	23(30)	6(1)	0(0)	0(7)
Jul.	81(88)	42(50)	18(24)	21(14)	38(50)	5(2)	32(30)	2(1)	0(1)	4(4)

(numbers in parentheses for the same period in fiscal year '96)

Total Number of Incidents Per Field Office This Period:

1	2	3	4	5	6
16	9	10	9	23	14

ENFORCEMENT REPORT UPDATE

The following new enforcement actions were taken last month:

<u>Name, Location and Field Office Number</u>	<u>Program</u>	<u>Alleged Violation</u>	<u>Action</u>	<u>Date</u>
Dodger Enterprises Co., Tire Chop Division; Donald Grell, Ft. Dodge (2)	Solid Waste	Permit Violations; Tire Storage	Tire Order	7/09/97
Westway Trading Corporation Rudd (3)	Air Quality	Emission Violations	Order/Penalty \$1,500	7/11/97
Advanced Technologies Corp. Waterloo (1)	Air Quality	Asbestos	Order/Penalty \$7,500	7/11/97
MidAmerican Energy Co. Charles City, Waverly, Hampton (2)	Air Quality	Remedial Action	Consent Order	7/11/97

MidAmerican Energy Co. Independence (1)	Air Quality	Remedial Action	Consent Order	7/11/97
Neese, Inc. Hamilton Co. (2)	Wastewater	Prohibited Discharge	Order/Penalty \$3,000	7/11/97
SNB Farms, Inc. Hamilton Co.	Wastewater	Prohibited Discharge	Order/Penalty \$1,000	7/11/97
Iowa Waste Systems, Inc.; Fayette County Solid Waste Management Comm. (1)	Solid Waste	Leachate Control; Cover Violations; Other Violations	Order/Penalty \$10,000	7/11/97
Austin J. DeCoster d/b/a DeCoster Farms of Iowa, Sow Unit #15, Wright Co. (2)	Wastewater	Prohibited Discharge	Consent Order	7/14/97
Austin J. DeCoster d/b/a DeCoster Farms of Iowa Finishing Unit #1, Wright Co. (2)	Wastewater	Prohibited Discharge	Consent Order	7/15/97
Independence Mobile Home Park, Independence (1)	Drinking Water	MCL - Other; Public Notice	Order	7/21/97
Stellar Industries, Inc. Garner (2)	Air Quality	Construction Without Permit	Order/Penalty \$3,000	7/23/97
Tire-Tech Environmental Systems, Inc., Muscatine (6)	Solid Waste Wastewater	Other-Tire Storage, Fire Code; Permit Renewal	Order/Penalty \$2,500	7/23/97
Joyce Wagner and Bruce Manthe d/b/a Wagner Truck Wash, Merrill (3)	Wastewater	Construction Without Permit; Operation Without Permit	Order/Penalty \$5,000	7/23/97
Sandra Gebhardt, Clayton Co. (1)	Flood Plain	Construction Without Permit	Order/Penalty \$2,000	7/29/97

SUMMARY OF ADMINISTRATIVE PENALTIES

NAME/LOCATION	PROGRAM	AMOUNT	DUE DATE
Marvin Kruse d/b/a K & C Feeds (Luana)	UT	300	12-01-92
Don Grell d/b/a Dodger Enterprises (Ft. Dodge)	AQ	10,000	2-16-93
Duane Pospisil d/b/a Duane's Service (Lisbon)	UT	1,000	5-04-93
Melvin Foubert d/b/a Mel's Repair Service (What Cheer)	UT	400	12-13-93
Stan Simmer d/b/a Tire City (Des Moines)	UT	600	12-21-93
*63-80 Cafe (Moore Oil Co.) (Malcom)	WS	200	1-20-93
Leland Koster and Jim Koster (Alexander)	UT	350	6-11-94
*Home Asbestos & Lead Abatement Services (Johnston)	AQ	350	7-02-94
Crawford Flats, Ltd. (Denison)	WS	275	8-25-94
Coralville Lake Terrace Assn. (North Liberty)	WS	550	9-01-94

Bill Dettman d/b/a Dettman Oil Co. (Fonda)	UT	2,800	9-15-94
Scenic View Estates (Decorah)	WS	275	9-25-94
Hidden Valley Mobile Home Court (Washington Co.)	WS	200	10-22-94
*Dale Hall d/b/a Hall Oil Co. (Des Moines)	UT	250	11-15-94
William R. Hennessey & Son, Inc. (Cedar Rapids)	UT	2,670	12-06-94
Donald K. Schmidt (Cedar Rapids)	UT	3,000	12-27-94
Collier Oil Co.; Clark Concrete Co. (Onawa)	UT	3,300	1-22-95
Valley Heights 1st Annex (Blue Grass)	WS	550	6-05-95
Rock Falls Lounge (Rock Falls)	WS	1,500	6-12-95
Crestwood Acres; Mid County Water, Inc. (Toddville)	WS	375	6-13-95
Lake Vista Improvement Assn., Inc. (Solon)	WS	200	6-14-95
Fremont County Sanitary Landfill (Fremont Co.)	SW	5,000	7-05-95
David A. Dohlman d/b/a Dave's Conoco (Dumont)	UT	2,300	7-18-95
M & L Service; Loyal Dorr; Mark Courtney (Guthrie Center)	UT	1,000	8-30-95
Norman Klynsmas d/b/a OK One Stop Service (Hospers)	UT	2,000	9-01-95
Carter Lake, City of	WS	200	10-25-95
Meadow Knolls Addition (Marion)	WS	200	10-29-95
Searsboro, City of	WW	2,500	11-08-95
Economy Solar Corp. (Monticello)	AQ	7,500	11-25-95
Elery Fry; Allen Fry; Becky Sandeen (Monroe Co.)	SW	6,000	1-20-96
Patrick McCoy (Keokuk Co.)	AQ/SW	2,000	2-10-96
Cheryl Straughn d/b/a Cher's Mini Mart (Chapin)	UT	600	2-21-96
Dennis Sharkey d/b/a Sharkey Bldg. Wrecking (Dubuque)	AQ	2,000	3-11-96
C & C Ltd. d/b/a Country View MHP (Denison)	WS	475	4-08-96
David Kramer (Camanche)	UT	600	5-03-96
Latimer, City of	WS	150	5-03-96
Ainsworth, City of	WS	150	5-03-96
McClelland Bar & Grill (Council Bluffs)	WS	100	5-06-96
Paul L. Dunkel (Delaware Co.)	SW	1,500	6-27-96
*Orrie's Supper Club, Inc. (Hudson)	WS	650	7-15-96
*Woden-Crystal Lake Comm. School District (Crystal Lake)	AQ	1,000	8-01-96
Plantation Village Mobile Home Park (Burlington)	WW	1,000	8-01-96
Dennis L. Mattison (Winnebago Co.)	AQ/SW	600	9-03-96
*Dan Peterson d/b/a Peterson Backhoe (Dumont)	AQ	500	9-22-96
Carpenter Bar & Grill (Carpenter)	WS	725	9-27-96
Howard Victor and Wanda Victor (Des Moines)	UT	10,000	10-21-96
Riverside Lutheran Bible Camp (Story City)	WS	500	10-28-96
Wunschel Oil, et.al. (Battle Creek)	UT	4,400	12-23-96
Gassman's MHP & Spruce Harbor Inn (Dubuque)	WS	4,500	12-26-96
Mark Anderson d/b/a Westside Park for Mobile Homes; M A, Inc. (Burlington)	AQ/SW	1,000	1-03-97
#Eugene VanDenBerghe (Scott Co.)	WW	2,000	1-06-97
*Ken Frese (Keokuk Co.)	AQ/SW	175	1-09-97
*First United Methodist Church (Ft. Madison)	AQ	500	2-01-97
J.F.V. Corporation; Frank Hawk; Sharon Hawk (Prole)	UT	600	2-19-97
*Orville Long (Polk Co.)	SW	400	3-10-97
Thurman, City of	WR	100	3-17-97
Ballard Golf & Country Club (Story Co.)	WR	100	3-23-97
Rodney, City of	WS	100	4-07-97
Hofer's Danceland Ballroom (Walford)	WS	3,188	4-19-97
Ronald Slocum; Tammy Lynn Determan (Marshall Co.)	SW	10,000	5-24-97
Tom Ashland (Clear Lake)	UT	5,300	6-04-97

*Vernon Kinsinger d/b/a K & K Sanitation (Washington Co.)	AQ/SW	9,530	6-05-97
Robert Jeff White (Dallas Co.)	AQ/SW	10,000	7-14-97
Fibred-Iowa, Inc. (Iowa Falls)	AQ	2,000	7-29-97
Biovance Technologies, Inc. (Oskaloosa)	AQ	4,000	9-06-97
Neese, Inc. (Grand Junction)	WW	3,000	9-13-97
# SNB Farms, Inc. (Hamilton Co.)	WW	1,000	9-13-97
Advanced Technologies Corp. (Waterloo)	AQ	7,500	9-19-97
Westway Trading Corp. (Rudd)	AQ	1,500	9-19-97
Iowa Waste Systems, Inc.; Fayette Co. Solid Waste Comm.	SW	10,000	9-21-97
Deer Ridge Estates (Ottumwa)	WS	100	-----
Stellar Industries, Inc. (Garner)	AQ	3,000	-----
Tire-Tech Environmental Systems, Inc. (Muscatine)	SW/WW	2,500	
Joyce Wagner; Bruce Manthe d/b/a Wagner Truck Wash (Merrill)	WW	5,000	-----
Sandra Gebhardt (Clayton Co.)	FP	2,000	-----
TOTAL		171,888	

The following cases have been referred to the Attorney General:

Donald P. Ervin (Ft. Dodge)	SW	669	3-05-90
Robert and Sally Shelley (Guthrie Center)	SW	1,000	3-04-91
Vernus Wunschel d/b/a Wunschel Oil (Ida Grove)	UT	300	1-12-92
Verna and Don Reed; Andrea Silsby (Union Co.)	SW	1,000	4-07-94
Relative, Inc.; Doug Smuck (Des Moines)	UT	3,070	10-11-94
Relative, Inc.; Doug Smuck (Des Moines)	UT	600	10-11-94
Trust Trucking Corp.; Jim and Brenda Huyser (Lovilia)	UT	840	11-01-94
Paul Underwood d/b/a Underwood Excavating (Cedar Rapids)	AQ	4,000	3-24-95
Oscar Hahn (Solon)	AQ/SW	2,000	8-29-95
Randy Ballard (Fayette Co.)	FP	2,000	5-30-95
ESCORP Associates Ltd.; Arnold Olson (Cedar Rapids)	AQ	10,000	7-09-95
Brian McKernan d/b/a Hickory Grove MHP (Story Co.)	WW	1,000	4-15-96
Long Branch Tavern (Monmouth)	WS	100	5-01-96
Long Branch Tavern (Monmouth)	WS	6,400	10-28-96
Long Branch Tavern (Monmouth)	WS	200	3-18-97
*R.V. Hopkins, Inc. (Davenport)	AQ	10,000	11-15-95
TOTAL		43,179	

The following administrative penalties have been appealed:

NAME/LOCATION	PROGRAM	AMOUNT
Joe Eggers, Jr., et.al. (St. Ansgar)	SW	1,000
Hickory Hollow Water Co. (Ankeny)	WS	400
Wayne Transportation, Inc. (Greene)	WW	1,000
Mulgrew Oil Company (Dubuque)	HC	500
Charles Kerr (Sloan)	UT	600
Chickasaw Co. SLF, et.al. (Chickasaw Co.)	SW	1,000
Plymouth Cooperative Oil Co. (Hinton)	WW	1,000
Dean Hoeness d/b/a Hoeness & Sons (Winterset)	UT	300

King's Terrace Mobile Home Court (Ames)	WW	500
ITWC, Inc. (Malcom)	AQ	1,000
Frank Hulshizer (Benton Co.)	SW	500
LeMars, City of	WW	5,000
Crane Co. d/b/a Crane Valves (Washington Co.)	SW	500
Donald Udell (Plymouth Co.)	SW	1,000
Oakwood Park Water, Inc. (Ankeny)	WS	1,000
U.S. Dept. of Defense (Sioux City)	UT	5,720
Waverly Gravel & Ready-Mix aka Shell Rock Sand and Gravel (Shell Rock)	AQ	3,000
Coastal Mart, Inc.-Store #1081 (Davenport)	UT	5,320
Country Stores of Carroll, Ltd.; Roger Kanne (Carroll)	UT	10,000
Elite, Ltd.; Roger Kanne; James Pietig (Coon Rapids)	UT	3,500
Elite, Ltd.; Roger Kanne; James Pietig (Logan)	UT	3,288
HiWay Texaco, Ltd.; Roger Kanne; Rick Kanne (Bagley)	UT	5,000
Joseph L. Ranker; Daryl Hollingsworth (Indianola)	UT	4,000
Tom Wiseman (Sheffield)	UT	3,500
Karl and Thelma Boylan d/b/a Boylan's Service (Northboro)	UT	1,800
William Jensen d/b/a B & B Tire & Oil Co. (Avoca)	UT	2,300
Crabtree Lake Resort (Rhodes)	WW	5,400
Elmer R. Faust d/b/a Faust Garage & Grocery (Delaware)	UT	2,300
American Coals Corporation - Site #5 (Bussey)	AQ/SW	10,000
H.E.W., Inc. aka Hazardous Environmental Wastes, Inc. aka Algona		
Roofing & Insulation, Inc. (Algona)	AQ	5,000
Bankston, City of	WS	550
Wunschel Oil, et.al. (Ida Grove)	UT	10,000
Jim Foust (Indianola)	SW	2,175
Titan Wheel International, Inc. (Walcott)	WW	10,000
Ronald Sizemore and Mark Murphy (Eldora)	UT	3,200
Boomsma's Egg, Inc. (Alden/Galt)	AQ	10,000
Keith Owens and Howard Maurer (Wilton)	UT	3,100
Tom Babinat d/b/a Tom's Car Care (Grundy Center)	UT	3,600
Richard Beckett (Villisca)	UT	1,300
Henry and Randy Krohn d/b/a Krohn Const. (Waukee)	AQ/SW	4,000
James and Roxann Neneman; J&R Mini Mart (Council Bluffs)	UT	3,900
Simonsen Industries, Inc. (Cherokee Co.)	WW	5,000
Sale-R-Villa Const., Inc. (Perry)	AQ	10,000
Dennis Malone & Joanne Malone (Morning Sun)	UT	600
Economy Solar Corp.; Jeffrey C. Intlekofer (Cedar Rapids)	AQ	10,000
Marty Feinberg d/b/a Feinberg Scrap Iron; Betty Feinberg; F & F Metals (Lee Co.)	HC/WW	10,000
Earth Media Technologies, Inc. (Polk Co.)	SW	3,000
Pilot Oil Corporation (Walcott)	WW/UT	5,000
Leonard C. Page (Adams Co.)	SW	3,000
White Oaks Homeowners Assn. (Ankeny)	WS	1,000
Boyer Valley Company (Arion)	WW	8,000
Wilbur McNear; Gilbert Persinger (Smithland)	UT	2,500
Donald Krieger (Terrill)	UT	600
Donald J. Foreman d/b/a D & R Feedlots (Woodbury Co.)	WW	3,000
Wilbur McNear d/b/a McNear Oil Co. (Charter Oak)	UT	2,000
Holiday Mobile Lodge, Inc. (Johnson Co.)	AQ/SW	2,000
Shell Rock Products, Inc. (Butler Co.)	AQ/SW	10,000
E.L. Incorporated (Algona)	SW	5,000
Weber Construction, Inc. (Cascade)	AQ	4,000
Tri-County Bank & Trust (Cascade)	AQ	4,000

Jack Pinney Operations, Inc. (Sioux City)	AQ	4,000
Roy Burger (Gillette Grove)	UT	5,400
Spencer Municipal Hospital (Spencer)	AQ	3,000
Westside Park for Mobile Homes (Burlington)	WW	3,000
Climax Molybdenum Company (Ft. Madison)	HC/AQ	10,000
Clarence, City of	WW	3,000
Bill Shirbroun d/b/a Was Broken Pallet (Webster Co.)	AQ/SW	1,000
Daryl & Karen Hollingsworth d/b/a Medora Store (Indianola)	UT	4,800
Hidden Valley Mobile Home Park (Washington)	WW	2,000
Markley Knock d/b/a Knock's Bldg. Supply (Parkersburg)	AQ/SW	2,000
Dean Williams d/b/a Williams Oil Co. (Stuart)	UT	4,800
Russell Stagg (Muscatine Co.)	AQ/SW	2,000
Obie's Hurstville Tap, Inc. (Maquoketa)	WS	100
Edward Bodensteiner (Des Moines)	UT	3,200
Dallas County Care Facility (Adel)	WW	2,500
#Marlin Brenneman (Iowa Co.)	WW	3,000
Mount Joy Mobile Home Park (Davenport)	WW	2,000
Louisa-Muscatine Community School (Letts)	WS	500
Davenport Travel Plaza (Walcott)	WS	250
#C & I Eggs (Webster Co.)	WW	3,000
Vermeer Manufacturing Co. (Pella)	AQ	10,000
Gary Walker (Montgomery Co.)	AQ/SW	3,000
Haasco, Ltd. (Dubuque)	AQ	3,000
Site Services, Ltd. (Waterloo)	AQ	5,000
Winsor Oil Co., Inc.; Joyce Winsor (Vinton)	UT	1,500
Bernie Brauns d/b/a Brauns Waste Mgmt. (Muscatine Co.)	AQ/SW	10,000
Becker Gravel Company, Inc. (Stratford)	WW/FP	3,000
Ron Rupe (Polk Co.)	SW	2,000
Richard L. Magdefrau (Washington Co.)	AQ/SW	2,000
Lamoni, City of	WW	1,000
Margaret and Gene Palmersheim d/b/a G & M Service Mart (Greeley)	UT	1,500
Dakota Mobile Home Park (Oxford)	WW	2,550
Waste Mgmt. & Design; Monfort, Inc. (Des Moines)	SW/WW	10,000
#Boomsma Egg Site #1; A.J. DeCoster (Wright Co.)	WW	1,000
Richard Sprague (Tripoli)	AQ/SW	5,000
Joseph Barragy; Tom Barragy; J&M Woodshavings, Inc. (Cerro Gordo Co.)	AQ/SW	4,000
Marvin Low d/b/a Low's DX (Toledo)	UT	10,000
Carroll, City of	WS	3,000
Todd L. Salow (Washington)	AQ/SW	5,000
Camp Golden Valley (Lockridge)	WW	5,700
Holliman LTD.; Terry Holliman (Hamburg)	SW/WW	10,000
Organic Technologies Corp.; Tim Danley; Ken Renfro (Warren Co.)	SW/WW	10,000
Ralene Hawkins d/b/a R.J. Express Salvage & Demolition;	AQ/SW	1,000
Clara Lindstadt (Des Moines Co.)		
#Rod Bice (Boone Co.)	WW	500
Bellevue Golf Club, Inc. (Bellevue)	WS	300
Cliff's Place, Inc. (Waverly)	WS	1,500
Craig Burgin (Indianola)	UT	600
Wayne Johnson (Rockford)	AQ/SW	1,000
Sylvan Acres (Janesville)	WS	1,000
Paul Behounek; Todd Behounek (Tama Co.)	AQ/SW	7,100
Delaware County Landfill, Inc.	SW	5,000
Brittany Estates Addition (Manchester)	WS	4,000
Carroll Etchen (Clear Lake)	UT	10,000

Kruger Seed Co. (Dike)	AQ	3,000
Al DeCarlo Demolition Co. (Des Moines)	AQ	5,000
Ritchie Industries, Inc. (Conrad)	AQ	3,000
Bob Luke d/b/a D & R Tree Service (Washington)	AQ/SW	1,000
Country Pumpkin (Deloit)	WS	500
Robert Frees, Elizabeth Mathes (Washington Co.)	SW	1,000
TOTAL		439,253

The following administrative penalties were paid last month:

NAME/LOCATION	PROGRAM	AMOUNT
Pirelli Armstrong Tire Corp. (Polk Co.)	SW	250
Jolly Roger Campground & Marina (North Liberty)	WW	1,000
Muscatine, City of	SW	2,000
Randy Bonin/Vickie Brannick (Hardin Co.)	SW	100
TOTAL		3,350

ATTORNEY GENERAL REFERRALS

August 1, 1997

Name, Location and Region Number	Program	Alleged Violation	DNR Action	New or Updated Status	Date
Advanced Technologies Corp. Iowa City (6)	Air Quality	Asbestos	Referred to Attorney General	Referred	6/20/97
Ballard, Randy Fayette Co. (1)	Flood Plain	Construction Without Permit	Order/Penalty	Referred	5/29/96
Beaver, Jody Cedar Co. (6)	Solid Waste Air Quality	Illegal Disposal Open Burning	Order/Penalty	Referred	7/28/95
DeCoster, A.J. Wright Co. (2)	Wastewater	Prohibited Discharge	Referred to Attorney General	Referred Petition Filed Defendant's Pre-Answer Motions Filed State's Resistance Filed Order Denying Defendant's Motion Defendant's Motion for Separate Trials State's Resistance Filed Defendant's Answer Defendant's Reply to Resistance State's Supplement to Resistance State Brief Hearing on Motion for Separate Trials Order Denying Defendant's Motion Defendant's Motion to Compel State's Motion to Extend Pleadings Hearing Order Denying Defendant's Motion Order Granting State's Motion	7/17/95 1/23/96 3/06/96 3/27/96 4/12/96 4/19/96 4/29/96 5/01/96 5/06/96 5/30/96 5/31/96 6/03/96 6/28/96 10/03/96 10/15/96 10/21/96 10/28/96 10/28/96

Defendants Motion for Reconsideration	11/06/96
Order Denying Defendant's Motion	11/21/96
State's Motion to Compel	11/27/96
Hearing	12/20/96
Order Granting State's Motion	12/20/96
Trial	1/28/97- 2/06/97
Closing Arguments	2/11/97
Post Trial Briefs	2/21/97
Ruling (\$59,000/Civil)	3/05/97
Defendant 179(b) Motion	3/28/97
Defendant's Notice of Appeal	4/04/97

DeCoster, A.J. Nursery Unit #3 Wright Co. (2)	Wastewater	Prohibited Discharge	Referred to Attorney General	Referred Petition Filed Consolidated With Sow Unit #1 (See Below)	8/19/96 11/25/96 4/28/97
DeCoster, Austin J. Sow Unit #1 (2) UPDATED	Wastewater	Prohibited Discharge	Referred to Attorney General	Referred Petition Filed State's Motion to Change Venue State's Motion to Consolidate Order Granting Motions Amended & Substituted Petition Filed Trial Date Defendant's Motion for Partial Summary Judgment State's Resistance Filed State's Motion for Partial Summary Judgment	1/22/97 4/24/97 4/28/97 4/28/97 4/28/97 5/19/97 9/16/97 7/14/97 7/31/97 8/04/97
DeCoster, Austin J. Sow Unit #1; Nursery Unit #7 Wright Co. (2)	Wastewater	Prohibited Discharge	Referred to Attorney General	Referred	6/20/97
Economy Solar Corp. Ft. Madison (6)	Air Quality	Asbestos	Referred to Attorney General	Referred Petition Filed Trial Date Ruling (\$1,600/Civil & Injunction) Notice of Appeal Voluntary Dismissal	3/21/94 8/29/94 11/06/95 11/30/95 1/03/96 4/11/96
Economy Solar Corp. /Central Community School DeWitt (6)	Air Quality	Asbestos	Referred to Attorney General	Referred Petition Filed	7/17/95 1/03/97
Economy Solar Corp. Cedar Rapids (1)	Air Quality	Penalty Collection	Order/Penalty	Referred	6/17/96
ESCORP/Cryotech Ft. Madison (1)	Air Quality	Asbestos	Referred to Attorney General	Referred Petition Filed	7/17/95 4/11/97

ESCORP Associates,
Ltd; Arnold Olson

August 1997

Environmental Protection Commission Minutes

Cedar Rapids (1)	Air Quality	Asbestos	Order/Penalty	Referred	9/16/96
Hahn, Oscar Solon (6)	Air Quality Solid Waste	Open Burning Illegal Disposal	Order/Penalty	Referred Petition Filed Default Judgment	12/18/95 4/18/96 11/01/96
Humiston, Fred d/b/a Cedar River Trailer Park Letts (6)	Drinking Water	MCL-Nitrate	Referred to Attorney General	Referred	9/16/96
Huyser, James; Trust Trucking Lovilia (5)	Underground Tank	Site Assessment	Referred to Attorney General	Referred Petition Filed	11/21/94 4/18/96
Lee, Harold and Evelyn Keokuk Co. (6) UPDATED	Wastewater	Prohibited Discharge	Referred to Attorney General	Referred Petition Filed Consent Decree (\$4,000/Civil)	10/16/95 5/16/96 7/ /97
Martinez, Vincent d/b/a Martinez Sewer Service Davenport (6)	Hazardous Condition	Remedial Action	Order/Penalty	Referred Petition Filed Partial Default Judgment (Injunction)	2/17/92 12/21/92 10/11/94
McKernan, Brian d/b/a Hickory Grove Mobile Home Park Roland (5)	Wastewater	Discharge Limits; Monitoring & Reporting	Order/Penalty	Referred	1/22/97
Orrie's Supper Club, Inc. Hudson (1)	Drinking Water	Monitoring/Rep orting; Lead & Copper	Order/Penalty	Referred	10/16/95
Owens & Owens Realty, Inc. Wilton (6)	Underground Tank	DNR Defendant	Defense	Petition Filed Answer Filed	3/29/96 4/19/96
Papetti's of Iowa Food Products, Inc. Taylor Co. (4)	Wastewater	Prohibited Discharge	Referred to Attorney General	Referred	1/22/97
Postville Pork Postville (1) UPDATED	Wastewater	Prohibited Discharge	Referred to Attorney General	Referred Petition Filed	5/20/96 7/09/97
Reed, Verna and Don; Andrea Silsby Union Co. (4)	Solid Waste	Illegal Disposal	Order/Penalty	Referred Petition Filed Default Judgment	6/20/94 8/10/94 12/12/94
Relative, Inc.; Doug Smuck Des Moines (5)	Underground Tank	Insurance Violation	Order/Penalty	Referred Petition Filed Order Granting Default Judgment	10/17/94 5/12/95 11/26/96

Environmental Protection Commission Minutes

August 1997

R.V. Hopkins Davenport NEW	(6)	Air Quality	Emission Violations	Order/Penalty	Referred	5/21/97
----------------------------------	-----	-------------	------------------------	---------------	----------	---------

Schoenberr, R.B. d/b/a Long Branch Tavern Monmouth NEW	(1)	Drinking Water	Permit Renewal	Orders/Penalties	Referred	6/20/97
--	-----	-------------------	----------------	------------------	----------	---------

Stickle Farms, Inc. Linn Co. (1)		Wastewater	Prohibited Discharge	Referred to Attorney General	Referred	4/21/97
-------------------------------------	--	------------	-------------------------	---------------------------------	----------	---------

Underwood, Paul d/b/a Underwood Excavating and Demolition Cedar Rapids (1)		Air Quality	Asbestos	Order/Penalty	Referred Motion for Judgment	5/15/95 8/15/96
---	--	-------------	----------	---------------	---------------------------------	--------------------

CONTESTED CASES

<u>Date Received</u>	<u>Name of Case</u>	<u>Action Appealed</u>	<u>Program</u>	<u>Assigned To</u>	<u>Status</u>
1-23-86	Oelwein Soil Service	Admin. Order	WW	Murphy	Hearing continued; additional testing being done.
6-08-89	Shaver Road Investments	Site Registry	HW	Kennedy	New draft consent order issued to company for
6-08-89	Hawkeye Rubber Mfg. Co.	Site Registry	HW	Kennedy	New draft consent order issued to company for
6-08-89	Lehigh Portland Cement Co.	Site Registry	HW	Murphy	Hearing continued. Discovery initiated.
11-03-89	Bridgestone/Firestone, Inc.	Site Registry	HC	Murphy	Hearing continued pending negotiations. Settlement
5-08-90	Texaco Inc./Chemplex Co. Site	Site Registry	HW	-----	Settlement proposed.
5-14-90	Alter Trading Corp. (Council Bluffs)	Admin. Order	SW	Kennedy	Permit issued. District court suit dismissed. Field
6-20-90	Des Moines, City of	NPDES Permit Cond.	WW	Hansen	EPD met with City to resolve appeal issues. Follow-up
7-02-90	Keokuk Savings Bank and Trust; Keokuk	Site Registry	HW	-----	Hearing continued.
7-30-90	Key City Coal Gas Site; and Howard Pixler	Site Registry	HW	-----	Decision appealed (Pixler).
8-01-90	J.I. Case Company	Site Registry	HW	Preziosi	Hearing continued indefinitely pending cleanup of
10-15-90	Westside General Store Corp.	Admin. Order	UT	Womson	Evaluating inability to pay - UST fund eligibility by
12-27-90	McAtee Tire Service, Inc.	Admin. Order	SW	Kennedy	Amended order issued 1/11/96.
1-07-91	Joe E. Eggers, Jr.; Joe and Mary Eggers	Admin. Order/Penalty	SW	Kennedy	Hearing continued. Clean-up continuing slowly due to
5-20-91	Great Rivers Coop-Lockridge	Site Registry	HC	Murphy	Settlement proposed.
9-25-91	Archer Daniels Midland	Admin. Order	SW	Kennedy	DNR engineers reviewing documents.
1-17-92	Hickory Hollow Water Co.	Admin. Order/Penalty	WS	Hansen	Settlement offer to WS. Counter offer 7/13/93. Dept.
1-30-92	Center Oil Co., Inc.	Admin. Order	HC	Murphy	Negotiating before filing.
4-09-92	Wayne Transports, Inc.	Admin. Order/Penalty	WW	Murphy	Negotiating before filing.
4-15-92	Mulgrew Oil Co.	Admin. Order/Penalty	HC	Womson	Settlement letter sent 8/31/94. SCR completed.
4-24-92	Charles A. Kerr	Admin. Order/Penalty	UT	Womson	Financial inability claimed. Warning letter sent 1/25/95.
5-05-92	Plymouth Cooperative Oil Co.	Admin. Order/Penalty	WW	Murphy	Negotiating before filing.
5-12-92	Paris & Sons, Inc.	Site Registry	HC	Murphy	Negotiating before filing.
5-27-92	Beckett Chevrolet-Olds	Admin. Order	UT	Womson	Financial inability claimed. Claimant completing

6-23-92	Chickasaw County Board of Supervisors,	Admin. Order/Penalty	SW	Kennedy	County to include closing in FY 1997 budget. Letter
8-06-92	Randy Bonin and Vickie Brannick	Admin. Order/Penalty	SW	Kennedy	Clean-up progress is slow. Appellant's attorney to reply
8-24-92	Dean Hoeness d/b/a Hoeness & Sons	Admin. Order/Penalty	UT	Womson	Financial inability claimed. Insufficient documentation.
9-21-92	ITWC	Admin. Order/Penalty	AQ	Preziosi	Settlement close.
9-22-92	King's Terrace MHP	Admin. Order/Penalty	WW	Hansen	8/94-Letter to facility regarding resolution of appeal.
11-16-92	Frank Hulshizer	Admin. Order/Penalty	SW	Kennedy	Amended order issued 1/11/96.
12-14-92	Quantum	Permit Conditions	WW	Hansen	3/30/93 Dept. settlement offer made. 5/03/93 response
1-22-93	Pirelli Armstrong Tire Co.	Admin. Order/Penalty	SW	Kennedy	Settled. Penalty payment received 7/30/97.
4-05-93	Mapleton, City of	WW Operator	WW	Hansen	Under review by EPD. Appeal discussion with EPD
4-12-93	LeMars, City of	Admin. Order/Penalty	WW	Hansen	Construction permit issued. Schedule submitted by City
4-21-93	Donald Udell	Admin. Order/Penalty	SW	Kennedy	Clean-up completed. Penalty settlement due.
6-21-93	Jacobs Energy Corp., Inc.	Permit Denial	AQ	Preziosi	Hearing continued. Meeting held. Settlement close.
7-06-93	Dennis E. Good	Admin. Order	UT	Womson	Compliance initiated 12/23/96.
7-09-93	Oakwood Park Water, Inc.	Admin. Order/Penalty	WS	Hansen	Construction permit issued 2/94. Facility to be installed
7-20-93	Valley Restaurant/Sierp Oil; Mary & Carl	Admin. Order	UT	Womson	Settlement expected. SCR submitted. Revision required
7-20-93	U.S. Dept. of Defense	Admin. Order/Penalty	UT	Womson	SCRs on the site and several others in Sioux City under
11-16-93	Iowa Southern Utilities	Permit Conditions	AQ	Preziosi	Awaiting summary of issues from attorney.
12-23-93	Waverly Gravel & Ready-Mix aka Shell	Admin. Order/Penalty	AQ	Preziosi	Negotiating penalty. Settlement close.
1-27-94	Archer-Daniels-Midland	Permit Conditions	AQ	Preziosi	Negotiating before filing.
2-28-94	Coastal Mart - Davenport	Admin. Order/Penalty	UT	Womson	Deficient SCR. Letter sent. Penalty on appeal.
3-03-94	Burlington Northern Railroad	Tax Certification	WW	Hansen	3/96 - Letter to company regarding appeal. Response
3-08-94	Country Stores of Carroll, Ltd.; Elite Ltd.;	Admin. Order/Penalty	UT	Womson	All SCRs received. Proposal for compliance sent 7/97.
5-10-94	Dennis Malone; Joanne Malone	Admin. Order/Penalty	UT	Womson	Untimely appeal. Compliance 3/97. Negotiating penalty.
5-27-94	Joseph L. Ranker; Daryl Hollingsworth	Admin. Order/Penalty	UT	Womson	Insurance to qualify for remedial benefits unpaid. Issued
6-15-94	Lakeview Heights	Permit Conditions	WS	Hansen	Facility proposal under review by WS. DNR response to
7-07-94	Rose Bar Tire Shredding	Admin. Order	SW	Kennedy	Letter to revoke permit sent 6/9/97.
7-12-94	Tom Wiseman	Admin. Order/Penalty	UT	Womson	Appeal untimely. Follow-up letter sent. Attny. filing for
8-12-94	Karl and Thelma Boylan d/b/a Boylan's	Admin. Order/Penalty	UT	Womson	Inability to pay. Failed to return required
8-29-94	B and B Tire and Oil	Admin. Order/Penalty	UT	Womson	SCR accepted. Letter sent offering penalty negotiations
9-01-94	Elmer R. Faust d/b/a Faust Garage & Grocery	Admin. Order/Penalty	UT	Womson	SCR accepted - negotiating penalty.
9-02-94	Crabtree Lake Resort	Admin. Order/Penalty	WW	Hansen	Facility in compliance.
9-06-94	HEW, inc.	Admin. Order/Penalty	AQ	Preziosi	3/1/96 - Amended order to be issued.
9-09-94	American Coals Corp., Site 5 (Bussey)	Admin. Order/Penalty	SW/AQ	Kennedy	Bankruptcy filed. Phone conversation regarding
9-15-94	Bankston	Admin. Order/Penalty	WS	Hansen	1/95 - Information from City. Compliance initiated.
9-16-94	Wunschel Oil Co.; Vernus Wunschel;	Admin. Order/Penalty	UT	Womson	Consent order. SCR received. Revisions to SCR
9-26-94	James D. Foust	Admin. Order/Penalty	SW	Kennedy	Settlement offer made 1/23/96. FO rejected offer. Sent
10-07-94	Titan Wheel International	Admin. Order/Penalty	WW	Hansen	Revised BMR report submitted/reviewed by WW
10-19-94	Ronald Sizemore; Mark Murphy	Admin. Order/Penalty	UT	Womson	Inability to pay documented. County took tax deed.
10-26-94	Bootsma's Inc.	Admin. Order/Penalty	AQ	Preziosi	Negotiating before filing.
10-31-94	Owens & Owens Realty, Inc.; Keith Owens;	Admin. Order/Penalty	UT	Womson	District Court for judicial review. Fund eligible.
11-14-94	Tom Babinat d/b/a Tom's Car Care	Admin. Order/Penalty	UT	Womson	Inability to pay - request documentation.
11-28-94	Richard Beckett	Admin. Order/Penalty	UT	Womson	Referral to UST Fund. Follow-up - 3/96.
12-14-94	Campbell Clean-Up Service	Permit Denial	AQ	Preziosi	Negotiating before filing.
1-10-95	Steamboat Rock	Admin. Order	WS	Hansen	2/95 - Settlement offer by City and response by Dept.
1-11-95	Henry and Randy Krohn d/b/a Krohn	Admin. Order/Penalty	AQ/SW	Kennedy	Settlement offer made. FO rejected offer.
1-13-95	James and Roxann Neneman	Admin. Order/Penalty	UT	Womson	Inability to pay. Forms sent. No response. Follow-up -

1-13-95	Simonsen Industries, Inc.	Admin. Order/Penalty	WW	Hansen	2/28/95 - Submittal by facility's engineer regarding land
2-23-95	Lehigh Portland Cement	Permit Conditions	WW	Hansen	Informal settlement meeting held on 6/96. Facility to
2-27-95	Sale-R-Villa Construction	Admin. Order/Penalty	AQ	Preziosi	Settlement meeting held 5/23/96. Facility to submit
3-23-95	American Coals Corp.	Admin. Order	SW	Kennedy	In bankruptcy. Phone conversation 1/23/96 regarding
4-13-95	The Weitz Corp.; Barton Solvents, Inc.	Admin. Order	HC	Kennedy	Remediation plan received 5/27/96.
5-05-95	C & O Recycling Enterprises; Douglas W.	Permit Denial	AQ	Preziosi	Negotiating before filing.
5-25-95	Marty Feinberg d/b/a Feinberg Scrap Iron;	Admin. Order/Penalty	HC/WW	Kennedy	Hearing continued. Clean-up continuing.
5-25-95	E.I. DuPont DeNemours (95-A-133)	Permit Conditions	AQ	Preziosi	Awaiting engineering evaluation.
5-30-95	Earth Media Technologies	Admin. Order/Penalty	SW	Kennedy	In the process of clean-up.
5-31-95	E.I. DuPont DeNemours (91-A-266 thru 91-	Permit Conditions	AQ	Preziosi	Awaiting engineering evaluation.
6-09-95	Don Peterson d/b/a Peterson Backhoe	Admin. Order/Penalty	AQ	Preziosi	Settled. Awaiting final penalty payment.
6-16-95	Pilot Oil Corporation	Admin. Order/Penalty	WW/UT	Murphy	Site clean-up proceeding.
6-20-95	Toledo, City of	Permit Conditions	WW	Hansen	WW permits to negotiate settlement. Status of
6-23-95	Leonard C. Page	Admin. Order/Penalty	SW	Kennedy	Penalty settlement due 8/30/97.
6-29-95	White Oaks Homeowners Assn.	Admin. Order/Penalty	WS	Hansen	Informal meeting held 3/8/96. 4/25/96 follow-up letter
7-03-95	Donald J. Forenan d/b/a D & R Feedlots	Admin. Order/Penalty	WW	Hansen	Negotiating before filing.
7-05-95	Boyer Valley Co.	Admin. Order/Penalty	WW	Hansen	Informal meeting held for 6/7/96. Response from facility
7-10-95	Donald Krieger	Admin. Order/Penalty	UT	Womson	Tanks removed. Report due.
7-10-95	Gilbert Persinger	Admin. Order/Penalty	UT	Womson	SCR received - rejected. Review progress.
7-13-95	Organic Technologies Corp.	Admin. Order	SW	Kennedy	Awaiting ALJ decision.
7-28-95	Harold T. Knott; James C. Knott	Admin. Order	UT	Womson	Compliance initiated.
8-01-95	Wilbur McNear d/b/a McNear Oil Co.	Admin. Order/Penalty	UT	Womson	SCR not received as of 2/29/96.
8-18-95	Holiday Mobile Lodge, Inc.	Admin. Order/Penalty	AQ/SW	Kennedy	Appellant's attorney reply due 2/29/96.
8-18-95	Redmond Enterprises, Inc.	Admin. Order	UT	Womson	Compliance initiated. Selected for innovative
8-24-95	Shell Rock Products, Inc.	Admin. Order/Penalty	AQ/SW	Kennedy	Settlement offer due 8/1/96.
9-06-95	Kraft Foods Inc.; Oscar Mayer Division	Variance Denial	WW	Hansen	Follow-up letter requesting information sent 1/12/96.
9-20-95	FKI Industries, Inc.; Fairfield Aluminum, Inc.	Admin. Order	WW/HC	Murphy	Negotiating before filing.
10-09-95	E.L. Incorporated	Admin. Order/Penalty	SW	Kennedy	Appellant no longer accepting waste. Renewal permit
10-17-95	Tri-County Bank	Admin. Order/Penalty	AQ	Preziosi	Awaiting penalty payment.
10-17-95	Weber Construction, Inc.	Admin. Order/Penalty	AQ	Preziosi	Hearing held 4/25/97. Decision received in DNR's favor.
11-03-95	Jack Pinney Operations, Inc. aka Jack Pinney	Admin. Order/Penalty	AQ	Preziosi	Hearing set for 7/28/97 on penalty issue only.
12-12-95	Vernon Kinsinger; K & K Sanitation	Admin. Order/Penalty	AQ/SW	Kennedy	Clean-up progressing. Working with F.O. #6. Receiving
12-27-95	Ag Processing, Inc.	Permit Denial	AQ	Preziosi	Negotiating before filing.
12-28-95	Site Services, Ltd.	Admin. Order/Penalty	AQ	Preziosi	Negotiating before filing.
12-29-95	Spencer Memorial Hospital	Admin. Order/Penalty	AQ	Preziosi	Negotiating before filing.
1-04-96	Catherine E. Meredith	Admin. Order	UT	Womson	Compliance initiated.
1-08-96	Westside Park for Mobile Homes	Admin. Order/Penalty	WW	Hansen	Past due monthly monitoring reports submitted to FO 6.
1-11-96	Climax Molybdenum Company	Admin. Order/Penalty	AQ/HC	Preziosi	Negotiating before filing. Technical staff to meet with
1-12-96	Clarence, City of	Admin. Order/Penalty	WW	Hansen	1/96 - Facility inspected by FO 6. 9/96 letter from
1-19-96	Bill Shirbroun d/b/a Was Broken Pallet	Admin. Order/Penalty	AQ/SW	Kennedy	Negotiating before filing.
1-22-96	Daryl Hollingsworth and Karen	Admin. Order/Penalty	UT	Womson	Tanks removed.
1-24-96	Jolly Roger Campground	Admin. Order/Penalty	WW	Clark	Settled. Penalty payment received 7/3/97.
1-25-96	Hidden Valley Mobile Home Park	Admin. Order/Penalty	WW	Clark	Negotiating before filing.
1-25-96	Markley Knock d/b/a Knock's Building	Admin. Order/Penalty	AQ/SW	Kennedy	Phone conference with attorney regarding settlement -
1-30-96	Dean Williams d/b/a Williams Oil Co.	Admin. Order/Penalty	UT	Womson	Hearing set for 8/25/97.
2-06-96	Russell Stag	Admin. Order/Penalty	AQ/SW	Kennedy	Negotiating before filing.

3-04-96	Edward Bodensteiner	Admin. Order/Penalty	UT	Womson	Hearing held 11/7/96. Brief submitted. ALJ decision
3-11-96	Dallas County Care Facility	Admin. Order/Penalty	WW	Hansen	Facility inspected by FO. Now in compliance.
3-11-96	Marlin Brennenman	Admin. Order/Penalty	WW	Clark	Negotiating before filing.
3-14-96	Laurel, City of	Admin. Order	WW	Hansen	Information submitted by city under review by WQ
3-14-96	Lamoni, City of	Admin. Order	WW	Hansen	Flow information requested from City's engineer.
3-19-96	Obie's West	Admin. Order	WS	Hansen	Under review by WS section.
3-22-96	Mt. Joy Mobile Home Park	Admin. Order/Penalty	WW	Hansen	3/25/96 Inspection by FO 6. Facility in compliance.
3-26-96	Louisa-Muscatine Community School	Admin. Order/Penalty	WS	Hansen	Negotiating before filing.
4-19-96	C & I Eggs	Admin. Order/Penalty	WW	Clark	Negotiating before filing.
5-07-96	Lakeview Mobile Home Park	Admin. Order/Penalty	WW	Hansen	6/20/96 - informal meeting held. Facility to provide
5-08-96	Venneer Mfg. Co. (96AQ06)	Admin. Order/Penalty	AQ	Preziosi	Drafting consent order. Engineering staff to visit site
5-14-96	Gary Lee Walker	Admin. Order/Penalty	AQ/SW	Kennedy	Negotiating before filing.
5-16-96	Grand Laboratories, Inc.	Permit Denial	WW	Hansen	Information received and reviewed by EPD. Settlement
5-29-96	Champion Intl. Corp.	Permit Denial	AQ	Preziosi	Negotiating before filing.
5-29-96	Haasco, Ltd.	Admin. Order/Penalty	AQ	Preziosi	Negotiating before filing.
6-07-96	Clow Valve Company	Permit Conditions	AQ	Preziosi	Negotiating before filing.
6-07-96	Koehring Cranes, Inc.	Open Burning Variance	AQ	Preziosi	Negotiating before filing.
6-10-96	DeCoster Farms of Iowa (19 sites)	Admin. Order	WW	Clark	Proposed decision 11/25/96. Appealed to EPC
6-10-96	DeCoster Farms of Iowa (5 sites)	Permit Denial	WR	Clark	Proposed decision 11/25/96. Appealed to EPC
6-17-96	Winsor Oil Co., Inc. ; Joyce Winsor	Admin. Order/Penalty	UT	Womson	Compliance initiated. CADR received/approved.
6-19-96	Appanoose Co. Sanitary Landfill	Permit Modification	SW	Kennedy	Negotiating before filing.
6-25-96	Bernie Brauns d/b/a Brauns Waste Mgmt. &	Admin. Order/Penalty	AQ/SW	Kennedy	Negotiating before filing.
7-08-96	Becker Gravel Co., Inc.	Admin. Order/Penalty	WW/FP	Clark	Settlement close.
7/17/96	Richard L. Magdefrau	Admin. Order/Penalty	AQ/SW	Kennedy	Negotiating before filing.
8/01/96	DeCoster Farms of Iowa (Nursery Unit 7 -	Permit Denial	WW	Clark	Proposed decision 11/25/96. 12/27/96 - Appealed to
8/01/96	DeCoster Farms of Iowa (Boomsma Egg Site	Admin. Order/Penalty	WW	Clark	Hearing continued - date to be set.
8/02/96	Gene Hammen d/b/a Maple Grove Hog	Permit Denial	WW	Clark	Hearing held 9/23/96. Proposed decision 2/10/97.
8/09/96	Gene and Margaret Palmersheim d/b/a G &	Admin. Order/Penalty	UT	Womson	Negotiating before filing.
8/19/96	Capitol Oil Co., Inc. d/b/a Dakota Mobile	Admin. Order/Penalty	WW	Clark	Negotiating before filing.
8/23/96	Waste Management & Design (Monfort)	Admin. Order/Penalty	WW/SW	Kennedy	Settlement pending.
8/30/96	Howard Victor & Wanda Victor	Admin. Order/Penalty	UT	Womson	Closed facility. Negotiating penalty.
9/04/96	Ag Processing, Inc./Sheldon Facility	Permit Denial	AQ	Preziosi	Negotiating before filing.
9/24/96	North Star Steel Iowa	Permit Denial	AQ	Preziosi	Negotiating before filing.
10/11/96	DeCoster Farms of Iowa (96-WW-32).	Admin. Order	WW	Clark	Hearing continued indefinitely.
10/17/96	DeCoster Farms of Iowa (Nursery Unit 3 -	Permit Revocation	WW	Clark	Hearing continued indefinitely.
10/28/96	Fischer Controls International	Permit Conditions	WW	Hansen	Negotiating before filing.
10/28/96	Holliman Ltd.	Admin. Order/Penalty	SW/WW	Murphy	Negotiating before filing.
11/01/96	Joseph Barragy and Tom Bartoy d/b/a J & M	Admin. Order/Penalty	AQ/SW	Kennedy	Negotiating before filing..
11/05/96	Marvin Low d/b/a Low's DX	Admin. Order/Penalty	UT	Womson	New case. Tanks temporarily closed. Negotiating
11/07/96	Todd L. Salow	Admin. Order/Penalty	AQ/SW	Kennedy	Negotiating before filing.
11/08/96	Caseys General Stores, Inc.	Mean Time to Corrosion	UT	Womson	Settlement conference held 2/17/97.
11/08/96	Carroll, City of	Admin. Order/Penalty	WS	Hansen	Returned to compliance.
11/25/96	Camp Golden Valley	Admin. Order/Penalty	WW	Kennedy	Negotiating before filing.
12/02/96	Organic Technologies Corp.	Permit Denial	SW	Murphy	Hearing held 5/6, 7, 15, 28/97.
12/05/96	Organic Technologies Corp. -----91-SDP-02-	Admin. Order/Penalty	SW	Murphy	Hearing held 5/6, 7, 15, 28/97.
12/11/96	Ames, City of	Denial of Waiver	WS	Hansen	Hearing held 3/12/97. ALJ decision 4/4/97 upholding

1/02/97/	Ruan Leasing Co., aka Ruan Transportation	Admin. Order	AQ	Preziosi	Negotiating before filing.
1/22/97	Rock Island District Corps of Engineers	401 Certification Denial	WQ	Hansen	Hearing held 5/22-23/97. Briefs submitted to ALJ.
1/23/97	Rod Bice	Admin. Order/Penalty	WW	Clark	Negotiating before filing.
1/28/97	Ralene Hawkins d/b/a R.J. Express Salvage	Admin. Order/Penalty	SW/AQ	Kennedy	Clean-up complete. Negotiating penalty.
2/07/97	Craig Burgin	Admin. Order/Penalty	UT	Womson	Compliance initiated.
2/19/97	Cliff's Place, Inc.	Admin. Order/Penalty	WS	Hansen	Compliance initiated.
2/21/97	Farnland Foods, Inc. (Denison)	Permit Conditions	AQ	Preziosi	Negotiating before filing.
3/04/97	Wayne Johnson	Admin. Order/Penalty	SW/AQ	Kennedy	Negotiating before filing.
3/04/97	Q.C. Metallurgical Laboratory	Lab Cert. Revocation	UT	Womson	Interim settlement reached. Closed.
3/20/97	Sylvan Acres	Admin. Order/Penalty	WS	Hansen	Compliance initiated.
3/28/97	Paul Behounek; Todd Behounek	Admin. Order/Penalty	SW/AQ	Kennedy	Negotiating before filing.
4/01/97	Ralston Purina	Permit Conditions	AQ	Preziosi	Negotiating before filing.
4/07/97	AGP, Inc. (Ag Processing, Inc.)	Permit Conditions	AQ	Preziosi	Negotiating before filing.
4/10/97	Lehigh Portland Cement	PSD Permit Denial	AQ	Preziosi	Negotiating before filing..
5/07/97	Delaware County Landfill, Inc.	Admin. Order/Penalty	SW	Kennedy	Negotiating before filing.
5/16/97	Carroll Etchen	Admin. Order/Penalty	UT	Womson	Negotiating before filing.
5/16/97	Brittany Estates Addition	Admin. Order/Penalty	WS	Hansen	Negotiating before filing.
5/23/97	Ricalud A. Girres	Const. Permit Denial	WW	Clark	Sent to DIA.
6/06/97	Al DeCarlo Demolition Co.	Admin. Order/Penalty	AQ	Preziosi	Negotiating before filing.
6/06/97	Carroll's Foods of the Midwest	Const. Permit Denial	WW	Clark	Negotiating before filing.
6/10/97	Kruger Seed Co.	Admin. Order/Penalty	AQ	Preziosi	Negotiating before filing.
6/16/97	Ritchie Industries, Inc.	Admin. Order/Penalty	AQ	Preziosi	Negotiating before filing.
6/17/97	Bob Luke d/b/a D & R Tree Service	Admin. Order/Penalty	AQ/SW	Kennedy	Negotiating before filing.
6/30/97	Linwood Mining and Minerals	Admin. Order	AQ	Preziosi	Negotiating before filing.
7/22/97	CIPCO	Construction Permit	AQ	Preziosi	New case.
7/22/97	Robert P. Freest; Elizabeth R. Mathes	Admin. Order/Penalty	SW	Kennedy	New case.
7/30/97	Country Pumpkin	Admin. Order/Penalty	WS	Hansen	New case.

Mr. Stokes reviewed the various reports and explained that on the Enforcement Report, MidAmerican Energy Company is listed as Air Quality but they are not actually Air Quality actions. He noted that they relate to former manufactured gas plant sites and there are currently about 36 of these locations that are under mutual consent agreement. He related that in most instances these major utilities did not create the problem, which was due to gas being made out of coal in the 1930-40's. The major utilities have ended up with these sites by assuming or taking over these old, smaller or locally owned utility companies. The major utilities are now working with the department to help address and clean up the sites, and as a result staff have arrived at consent agreements with them. Mr. Stokes added that translates into a Consent Administrative Order and that is why they show up on this report, but they are different from the routine Orders that would be on this list.

Terrance Townsend asked if these cases could be put on a separate list or be marked with an asterisk.

Mr. Stokes noted that he will highlight them in some manner on future reports.

Rozanne King asked about the status of the Maple Grove case.

Mr. Stokes responded that they have applied for reissuance of a permit and staff are working on it, but more information is needed from them before it can be issued.

INFORMATIONAL ONLY

NOTICE OF INTENDED ACTION--CHAPTER 44, DRINKING WATER REVOLVING FUND

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

The Environmental Protection Commission will be asked to approve the attached notice of intended action for drinking water revolving loan fund rules. On August 6, 1996 the President signed the Safe Drinking Water Act (SDWA) Amendments of 1996 (Pub. L. 104-182). Section 1452 of this Act authorizes the U.S. Environmental Protection Agency (EPA) to establish a State Revolving Loan Fund for drinking water-related projects to assist water systems to finance the costs of infrastructure needs and to maintain compliance with SDWA requirements. Authorizing legislation to set up this drinking water facilities fund in Iowa (House File 191) was approved by the Governor in March. Funds available to provide loan assistance this Fiscal Year will be approximately \$ 16.86 million due to these amendments and the attached enabling rules. The intended rules include:

- Definitions of the fund's purpose, including the department's intent to utilize various authorized set-aside provisions within the fund.
- Thresholds for water systems to become eligible for loan assistance.
- A proposed ranking system.
- Provisions for working with the Iowa Finance Authority, which will be the entity which issues bonds maintain the proposed loan fund.

The proposed rules are written as a new Chapter 44 to the Department's Division B - Drinking Water administrative rules.

ENVIRONMENTAL PROTECTION COMMISSION (567) Notice of Intended Action

Pursuant to the authority of Iowa Code sections 455B.105 and 455B.173, the Environmental Protection Commission gives Notice of Intended Action to add a new Chapter 44, "Drinking Water Revolving Fund," Iowa Administrative Code.

On August 6, 1996 the Safe Drinking Water Act (SDWA) Amendments of 1996 (Pub. L. 104-182) were passed. Section 1452 of this Act authorizes the U.S. Environmental Protection Agency (EPA) to enact a State Revolving Loan Fund (SRF) for drinking water-related projects

to help water systems finance the costs of infrastructure needs. Authorizing legislation to set up this drinking water facilities fund in Iowa (House File 191) was approved in March. These rules are intended to enable and administer the infrastructure loan fund.

The proposed rules define the fund's purpose, including the department's intent to utilize various authorized set-aside provisions within the fund. The rules also contain thresholds for water systems to become eligible for loan assistance, and a project priority scoring system.

New definitions for "authority," "drinking water state revolving fund," "loan agreement," "project priority list," and "significant noncompliance" have been added. The rules also include provisions for working with the Iowa Finance Authority, which will be the entity which issues bonds which will maintain the proposed loan fund. The rules have been written in consultation with an advisory committee (the Safe Drinking Water Act Advisory Group) consisting of eighteen representatives from professional/technical organizations, water utilities, and industry groups. The rules may be altered in response to public comments.

These rules may have an impact on small businesses.

Any interested person may provide written comments on these rule amendments prior to _____. Comments should be sent to Dennis Alt, Iowa Department of Natural Resources, Wallace State Office Building, 900 East Grand Avenue, Des Moines, Iowa, 50319. Interested persons are also invited to present oral or written comments at public hearings which are proposed to be held at the following six locations pursuant to the attached schedule:

Des Moines	12:00-3:00	Oct. 7, 1997	IDNR, Wallace State Office Bldg. 4E & 4W Conference Rooms, Des Moines, IA 50319-0034
Cedar Rapids	10:30-2:00	Oct. 13, 1997	Amana Bldg., Iowa Hall Rooms C-D, Kirkwood Community College, 6301 Kirkwood Blvd SW, Cedar Rapids, IA 52406
Mason City	8:30-11:00	Oct. 14, 1997	North Iowa Area Community College (NIACC) --- Muse-Norris Conference Room, Mason City, IA 50401
Storm Lake	9:00-12:00	Oct. 15, 1997	Buena Vista College, Fieben Forum, 4th & Grand Avenue, Storm Lake, IA 50588
Denison	9:30-1:00	Oct. 16, 1997	Denison Community Room, 111 North Main Street, Denison, IA 51442

Fairfield 10:30-2:00 Oct. 17, 1997 City Council Chambers, 112 South Main Street, Fairfield, IA 52556

Copies of these proposed rules may be obtained from Sarah Detmer, Records Center, Department of Natural Resources, Wallace State Office Building, 900 East Grand Avenue, Des Moines, Iowa 50319-0034. Technical inquiries should be made to Michael K. Anderson, P.E. at (515) 281-6599.

These rules are intended to implement Iowa Code chapter 455B, division III, part 1, and 1997 Iowa Acts, House File 191 (March 7, 1997).

The following amendments are proposed.

CHAPTER 44 DRINKING WATER REVOLVING FUND

567--44.1(455B) Statutory Authority.

The authority for the Iowa department of natural resources to provide loans to eligible applicants to assist in the construction of drinking water treatment facilities is provided by 1997 Iowa Acts, House File 191.

567--44.2(455B) Scope of title.

The department has jurisdiction over the surface and groundwater of the state to prevent, abate, and control pollution. As a part of that general responsibility, the department and the authority are jointly designated to conduct the administration of the state revolving (SRF) loan program to assist in infrastructure financing projects pursuant to the Safe Drinking Water Act. A project must comply with this chapter to be eligible for an SRF loan. This chapter provides for the background, the general rules of practice for the department's administration of the program, including the criteria for loan eligibility, and the general project and program administration rules.

567--44.3(455B) Purpose.

The state revolving fund program provides financial assistance to eligible public drinking water supplies for the design and construction of facilities to ensure public health and the provision of safe and adequate drinking water. The program reserves a certain percentage of money each year for administrative purposes, to improve and protect source water quality, and to provide technical assistance to smaller drinking water systems. The program is administered by the Iowa department of natural resources ("department"), with assistance from the Iowa finance authority ("authority"). The director will coordinate with the authority under the terms of an interagency agreement entered pursuant to Iowa Code Chapter 28E. The Iowa department of natural resources establishes priorities for the use of the State revolving fund, and publishes them each year in its Intended Use Plan (IUP). Published IUPs may include loan funding applications (capitalization grant applications, submitted by the department to the United States

environmental protection agency (EPA)) for either single or for multiple years, depending on the department's preference and resource utilization plans. The IUP will identify all proposed uses of available funds and how each will be managed. All potentially funded projects must be approved by the Iowa department of natural resources before they can be considered for certification to the Iowa finance authority.

The United States environmental protection agency provides capitalization grants for this program to the State of Iowa. Financial assistance projects must be in conformance with the requirements of the "Public Health Service Act (42 U. S. C. 300f et seq.)," United States Code, title XIV section 1452, Part E.

567--44.4(455B) Definitions. The following words and terms shall have the following meanings unless the context clearly indicates otherwise:

"Applicable interest rate" means the interest rate applied to each individual loan as determined by the director and in accordance with any agreement with the Iowa finance authority.

"Authority" means the Iowa Finance Authority (IFA) as established by Iowa Code chapter 16.

"Conservation easements" means an interest in land that entitles a person to use the land possessed by another (affirmative easement), or to restrict uses of the land subject to the easement (negative easement). A conservation easement restricts the land owner to uses that are compatible with resource conservation.

"Contiguous" means directly adjacent or touching along all or most of one side (of a legally defined piece of property). Tracts of land involved in the same operation or water supply and separated only by roads, railroads, or bike trails are deemed contiguous tracts.

"Debt service coverage ratio" means the sum of net income plus interest expense plus depreciation, divided by the sum of debt service, principal plus interest, and payments.

"Department" means the Iowa department of natural resources (DNR). "Director" means the director of the Iowa department of natural resources.

"Drinking water state revolving fund" (SRF) means a State-administered fund intended to develop drinking water revolving loans to help finance drinking water infrastructure improvements, source water protection, system technical assistance, and other activities intended to encourage and facilitate public water supply system rule compliance and public health protection established by 1997 Iowa Acts, House File 191.

"Eligible cost" means the cost of all labor, material, machinery, equipment, loan initiation and loan service fees, design and construction engineering services, legal fees and expenses directly related to the project, capitalized interest during construction of the project, and all other expansion, construction, and rehabilitation of all or part of a project incurred after the date of approval of an intended use plan (IUP) which contains the project on a list of projects which are approved for SRF loan assistance.

"Fiscal year" means the federal fiscal year starting October 1 and ending September 30.

"Intended use plan" (IUP) means a plan identifying the intended uses of funds available for loans in the SRF for each fiscal year as described in Section 1452 of the Safe Drinking Water Act.

"Loan agreement" means an executed contract between a loan applicant and the director and the authority, confirming the purpose of the loan, the amount and terms of the loan, the

schedule of the loan payments and requirements, and any other agreed-upon conditions set forth by the director and the authority.

"Project priority list" means the list of projects in priority order that may qualify for SRF loan assistance contained in the IUP document prepared pursuant to subrule 44.8. The priority list shall identify all projects eligible for funding and the points assigned to each project pursuant to subrule 44.7(8).

"Public water supply system" (also referred to as a system or a water system or PWS) means a ~~system for the provision to the public of piped water for human consumption, if such system has~~ at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. Such term includes (1) any collection, treatment, storage, and distribution facilities under control of the supplier of water and used primarily in connection with such system, and (2) any collection (including wells) or pretreatment storage facilities not under such control which are used primarily in connection with such system. A public water supply system is either a "community" water system" or a "noncommunity water system."

1. "Community water system" means a public water supply system which has at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

2. "Noncommunity water system" means a public water supply system that is not a community water system.

"Significant noncompliance" means the failure to comply with any primary national drinking water standard as adopted by the State of Iowa according to criteria established by the administrator of the federal environmental protection agency.

"SRF funds" means the combination of a particular fiscal year's federal capitalization grant appropriation plus the 20% State of Iowa match.

"Viability" means the technical, financial, and managerial ability to comply with applicable national primary drinking water standards as adopted by the State of Iowa. Viability is the ability of a system to remain in substantial compliance insofar as the requirements of the SDWA.

567--44.5(455B) Set-asides.

The Safe Drinking Water Act (SDWA, or "Act") authorizes set-aside funds to enable states to implement specific requirements of the Act. The amount and use of set-aside money is set each year in the IUP (pursuant to rule 44.8) and may be adjusted from year to year based on available funds and priorities as outlined in the IUP. As prescribed in the Act, set-asides will include but are not limited to:

44.5(1) Administration expense set-aside --- These set-aside funds are to be used to administer the State revolving loan fund (SRF). This includes loan portfolio management, debt issuance, SRF program startup and other administrative costs, financial, management, and legal consulting fees, and related support services. This set-aside allows a maximum of 4% of the total available federal capitalization grant and state match funds in a particular year.

44.5(2) Small system technical assistance set-aside --- These set-aside funds will be used to provide technical assistance to public water supplies serving 10,000 people or fewer. This set-aside allows a maximum of 2% of the total available federal capitalization grant and state match funds in a particular year. Applications for third party technical assistance proposals must be

submitted and will be accepted and evaluated pursuant to subrules 44.7(2) through (8) prior to publication of the IUP in a given year.

44.5(3) Source water protection implementation set-aside --- These set-aside funds will be used to delineate and assess source water protection areas, and may be used to establish and implement source water and wellhead protection programs. This set-aside allows a maximum of 15% of the total available federal capitalization grant and state match funds in a particular year. Up to 10% of the total funds (67% of this set-aside) will be used by the department in the first two years of the SRF to delineate and assess source water protection areas; some of these funds may be sub-contracted to third parties to perform aspects of this work. Source water (quality partnership) petition programs (made by individual or consortiums of public water systems) established under Section 1454 of the SDWA Amendments will be eligible for money under this set-aside. Applications for third party source water petition proposals must be submitted and will be accepted and evaluated pursuant to subrules 44.7(2) through (8) prior to publication of the IUP in a given year.

44.5(4) State program management set-aside --- This set-aside money may be reserved for public water supply supervision programs, to include watershed protection, wellhead protection, operator certification, drinking water information management system development, and viability assessment efforts. This set-aside allows a maximum of 10% of the total available federal capitalization grant and state match funds in a particular year.

567--44.6(455B) Eligibility.

The following systems are eligible to receive funds from the Iowa drinking water revolving loan fund, for health improvements as listed and defined in the Safe Drinking Water Act, as amended (the "Act").

- Community drinking water supplies
- Nonprofit nontransient noncommunity drinking water supplies
- Cities and counties that are PWS or can become viable new PWS as a result of this project.
- Any other governmental subdivision of the state responsible for the treatment and distribution of piped drinking water for human consumption, serving a minimum of 15 connections or an average of 25 people daily for at least 60 days of the year.
- No assistance shall be provided to any loan applicant who has not adopted and implemented satisfactory department-approved water conservation plans and practices, or demonstrated to the department an on-going effort to adopt and implement such plans and practices within one calendar year from the date of the loan agreement.
- No assistance shall be provided to any loan applicant in significant noncompliance with any applicable primary drinking water regulation, unless the project will return the loan applicant to compliance.
- No assistance shall be provided to any loan applicant lacking viability (applicants whose systems lack technical, financial, and managerial viability to comply with the Act and are non-viable or lack capacity per the definition of the Act), unless the loan applicant commits to undertake appropriate changes in operations, including ownership, management accounting, rates, maintenance, consolidation, alternative sources of water supply, or other procedures if the director determines that such changes are necessary to demonstrate viability.

- No assistance shall be provided for projects and activities deemed ineligible for participation in the drinking water SRF program by the U.S. environmental protection agency's February 28, 1997 guidelines, or the department.

567--44.7(455B) Project point ranking system (Project Priority List).

44.7(1) The director shall develop and maintain a Project Priority List of public water systems that have a need for either a new or an upgraded drinking water system (including individual sub-components). ~~The term "public water system projects" may also include separate segments or phases of a segmented or phased project.~~ The Project Priority List may include projects which are not ready to proceed (e. g., it may include projects by their nature planned and implemented for a longer term than one year or those unable to be implemented within one calendar year), but letters of intent for such projects must be received by the department for the projects to proceed within 5 years of the submitted letter of intent, or they shall not receive funding. Projects may be construed as not ready to proceed due to lack of fiscal capability (of either the loan applicant or of the State), due to emergencies experienced by the applicant (or the State), or due to construction or other scheduling constraints. Projects will continue to be eligible for loan funding if they are funded for the first year of a multi-year segmented project effort, but they must re-compete for priority ranking in that particular year.

44.7(2) At least once each year, the director will provide notification to eligible water supplies that applications for placement on the Project Priority List are being accepted by the department. The notice shall include the schedule for submittal of the requirements listed in subrule 44.7(6), in order to be placed on the Project Priority List.

44.7(3) At least once each year or more often as necessary, the department may amend the Project Priority List to add eligible projects. List adjustment can be done to assure that the department uses at least 15% of all funds credited to the SRF account to provide loan assistance to systems serving fewer than 10,000 persons (allowable under section 1452(a)(2) of the Act), to the extent that there are a sufficient number of eligible projects to fund. List adjustment can also be made to maintain the fiscal integrity of the bond fund, pursuant to rule 44.8 and the annual published IUP's short and long term goals.

44.7(4) To be eligible for placement on the Project Priority List, the water system must have an preliminary engineering study of potential system needs (e.g., a "planning" study) approved by the department, and must submit a written application for placement on the List to the director. The application must include

1. a description of the type of project for which financial assistance is being requested,
2. the amount of financial assistance being requested, and
3. a proposed preliminary project construction schedule.

Application shall be made on an SRF application package form provided by the department; the applicant may include additional information in the application. Applicants must re-apply each year to be placed on the Project Priority List. Forms can be obtained from the Environmental protection division, Iowa department of natural resources, Henry A. Wallace Building, 502 E. 9th Street, Des Moines, IA 50319-0034.

44.7(5) Reserved.

44.7(6) Applicants seeking financial assistance for construction must include with their application:

1. a description of the entity's current drinking water supply system, including a discussion of existing and potential problems or failures in the current drinking water system (including compliance with state and federal criteria),
2. an estimate of the population and the number of households to be served,
3. annual operating cost projections for a minimum of five years, if feasible, and historical annual operating costs for a period of the immediate past three years, to include balance sheets and income statements, where applicable.
4. a description of the basis for project design,
5. a description of the financial management system, and
6. a map showing the geographical area that the project is expected to serve.

A cost estimate for the selected project must also be included with the submission. A construction project's priority points shall be the total number of points assigned by the department pursuant to the department's scoring system, delineated in subrule 44.7(8).

44.7(7) All projects shall be listed in descending order on the published Project Priority List according to the number of total priority points assigned each project. When two or more projects have the same priority point total, the project sponsored by a system in the process of consolidation shall receive the higher priority. A private non-public system in the process of forming and becoming a PWS shall have the next highest priority, and the entity with the smallest served population shall receive the next highest priority. The most current official census population shall be used for all municipalities which apply for these loan funds. Nontransient noncommunity systems will be counted based on either the actual population verifiable by the department, or population as calculated by multiplying by an occupancy factor of 2.5 persons per service connection. New systems will be counted based on either census data, an occupancy factor of 2.5 persons per service connection, an occupancy factor of 2.5 persons per identifiable occupied building, or other means acceptable to the department. Funding shall be offered to the projects with highest rank on the Project Priority List (subject to the project's readiness to proceed), and shall proceed from highest project downward subject to availability of funds. No project is eligible for more than 50 percent (50%) of the total available funds in any single calendar year. No project is eligible for a loan of less than \$50,000. Projects comprising for-profit water systems may make up no more than 10% of the Project Priority List in any given year. The EPC may adjust these maximum and minimum loan figures in a given year pursuant to their final approval of the fiscal year's IUP. The published Project Priority List shall also be included in the department's annual Intended Use Plan (IUP), pursuant to rule 44.8.

44.7(8) Eligible public drinking water supply projects shall be scored pursuant to the following priority point scoring system.

IOWA SRF PROJECT SCORING SYSTEM

(Multiple attributes within a lettered subcategory are not additive, but points are additive from other subcategories; consolidation/restructuring is an approved option to correct violations or "improve" treatment)

Scoring Criterion

Points

A. Water Quality & Human Health Risk-related Criteria (maximum of 60)

points)

1. Acute MCL violation corrected (fecal coliform, e. coli, nitrate, SWTR including turbidity & Giardia) 60
2. Chronic MCL violation corrected (all non-acute MCLs including heavy metals, SOCs, VOCs) 50
3. Treatment technique requirement correction (Pb/cu corrective measures, CT time corrective measures, disinfectant residual corrective measures) 40
4. Imminent threat from groundwater contamination (from UST site, from CERCLA site, from uncontrolled site) 35
5. Connection of individual residences to PWS to eliminate use of contaminated individual private wells (bacterial, nitrate, or IOC/VOC/SOC well contamination all eligible) 35
6. Intermittent MCL violation correction (more than 4 MCLs/ 3 years is the cutoff criterion) 25
7. Lead or asbestos cement pipe replacement (replace at least 200 feet of pipe) 15

B. Infrastructure & Engineering-related Improvement Criteria (maximum of 35 points)

1. System redundancy and/or additional source to meet peak day demand w/ largest well or intake out of service); Plant process rehabilitation (made to assure redundancy of treatment units to protect against acute or chronic MCL with system's largest treatment unit out of service); Water storage improvements (system reliability enhancement --- to increase effective storage to Avg. Daily Demand, including either at-ground and elevated storage); Pumping improvements meeting hydraulic & ten-State Standard requirements for Avg. Daily Demand. 35
2. Capacity expansion (points allowable only when system is operating at 85% or over of system capacity (source, plant, or distribution system capacity improvements are all eligible)) 30
3. Pressure improvements, including pump upgrades, pipe looping and pressure reduction valves such that avg. distribution system pressure increases by more than 10 psi in project area. 20
4. Other distribution system enhancement (e.g., valves, fittings, line replacement, hydrants, pumping stations) 20
5. Provision of emergency power/ emergency pumping capacity including purchase of diesel generators or installation of automatic switching systems 15
6. Rectify excessive water loss per established water conservation plan (more than 15% of water must be unaccounted for to be eligible for points) 10

C. Affordability Criteria (maximum of 10 points)

1. System serves low income population (Community Development Block Grant (CDBG) Iowa Department of Economic Development (IDED) Low-Moderate Income Criteria (LMI)) 10

D. Special Category Improvements (maximum of 15 points)

1. Wellhead protection (detailed contaminant inventory, contingency plan, conservation easements, and land acquisition) 15

2. Source protection (detailed contaminant inventory, contingency plan, 15
conservation easements, and land acquisition)
3. Water Conservation Measures/Conservation Plan preparation insofar as new 5
water conservation ordinances are adopted and enforced

E. IDNR Adjustment Factor for Population---use 1 score only

1. (Project Serves) Population less than 10,000

10

567--44.8(455B) Intended Use Plan.

44.8(1) Development. The director shall prepare an intended use plan (IUP) each year. The IUP will be submitted to a public hearing and approved by the commission.

44.8(2) Contents. The IUP will identify the anticipated uses of loan funds available for that fiscal year and will include:

a. A list of projects from the state project priority list that are eligible for SRF loans and any proposed activities eligible for assistance under set-aside authority of the SDWA. The list will include the name of the eligible recipient, applicable PWS permit number, the projected amount of loan assistance, and a schedule of estimated disbursement of funds. The department's list will consider the following in developing the list of eligible recipients for the intended use plan:

(1) Whether a project will be ready to proceed on a schedule consistent with time requirements for outlay of funds;

(2) Whether the project addresses the need upon which the system's priority is based;

(3) Applicant's financial capability to service the loan, provide operation and maintenance, and provide replacement and debt service reserves.

(4) Applicant's statement of willingness to accept all loan terms and conditions.

b. Discussion of the long term and the short term goals of the SRF.

c. Information on the types of activities to be supported by the SRF.

d. The method by which the IUP may be amended.

e. Assurances on how the state intends to meet environmental review requirements of the Act.

567--44.9(455B) Department initial approval of projects.

44.9(1) Project/loan initiation conference. Each eligible loan recipient shall schedule a project/loan initiation conference with the department. The eligible recipient's official representative will meet with the department to discuss the following items and other items relevant to the project/loan as necessary:

a. SRF loan program policies, procedures and guidelines;

b. Allowable costs;

c. Treatment technologies;

d. Environmental impacts and review considerations;

e. Public participation;

f. Scheduling;

g. Other information as needed.

44.9(2) An applicant seeking financial assistance from the State revolving fund for a construction project must provide the following information to the director for review and approval:

a. Plans and specifications must be signed by a professional engineer holding current license to practice in Iowa.

b. Plans and specifications must be consistent with the project/s identified in the application submitted pursuant to subrule 44.7(6).

~~c. The planned project must be described in full and the construction requirements necessary to complete the project as proposed must be detailed.~~

d. The project submittal shall include the latest engineering cost estimate for the project.

e. The plans and specifications shall comply with all applicable state statutes, rules, and design standards.

f. Those portions of projects not meeting eligibility requirements may be excluded from the funded project, but included in the submitted plans and specifications if the applicant chooses to keep the loan-ineligible part of the project as part of the overall system improvement. Ineligible portions of projects are included but not limited to dams, water rights, monitoring costs, operation and maintenance expenses, projects designed primarily in anticipation of future or speculative growth, and projects needed primarily for fire protection.

g. The applicant has or will demonstrate the ability to assure a dedicated source of revenue.

h. The applicant has demonstrated its ability to provide the necessary legal, institutional, managerial, and financial capability to complete the project. Legal, institutional, managerial, and financial capability includes the requirement that the applicant will show the ability to collect the amount of money sufficient to repay the SRF loan.

44.9(3) An applicant seeking financial assistance from the State revolving fund for any project appearing on the Project Priority List must submit information as required under subrule 44.7(6) on forms provided by and acceptable to the department. Departmental review requirements shall consist of the following:

a. Upon review and approval of construction projects submitted as required under subrule 44.7(6), and the plans and specifications as required under subrule 44.9(2), and following a determination that the project meets the applicable requirements of the Act, Federal regulations, Iowa Statutes, and relevant portions of this Chapter, the director shall approve the project in writing.

b. If there is an alteration (change order) to a project after the director approves the project, the eligible applicant must request in writing from the department an amended approval. The director shall review the request and proposed project alteration (change order), and, upon a determination that the project meets the applicable requirements of the Act, Federal regulations, Iowa Statutes, and relevant portions of this Chapter, the director shall approve the project (as amended).

c. The director shall inform the applicant in writing the reason for loan denial and return any application not in substantial compliance with these rules.

567--44.10(455B) Reserved.

567--44.11(455B) Certification of the project to the authority.

44.11(1) Upon approval of a project pursuant to rules 44.7 and 44.9, and certification that the project is listed on the department's current year's Project Priority List, the director shall certify the project to the authority for review and consideration for loan eligibility.

44.11(2) Systems without a certified operator shall not receive loan assistance. Before the financial assistance recipient submits its 50% payment loan disbursement request to the authority (with copy to the department), it must submit to the department the name, certification number and certification expiration date of the operator certified, pursuant to Chapter 567--81, to be directly responsible (in direct responsible charge) for the operation of the facility.

567-44.12(455B) General administrative requirements

44.12(1) Loan agreement conditions. The director in coordination with the authority will prepare a loan agreement when the application has been determined to be in compliance with the requirements of the SDWA and applicable state rules for SRF funding. The loan agreements to be executed by the applicant and the department shall be a binding obligation under Iowa law, shall include conditions and terms to be effective for the loan period, and shall be accompanied by evidence of such security, legality, and enforceability as shall be satisfactory to the director. Each borrower's loan agreement terms may differ due to differences in legal structure and credit worthiness of eligible borrowers. The expected loan agreement terms will be discussed with the applicant at the project initiation conference described in rule 44.9.

44.12(2) Allowable costs shall be limited to those eligible costs deemed necessary, reasonable, and directly related to the efficient completion of the project. The director will determine project costs eligible for state assistance in accordance with state rule 44.6(455B). Land purchase, easement, or rights-of-way costs are ineligible with the exception of land which is integral to a project that is needed to meet or maintain public health protection, and needed to locate eligible treatment or distribution works. Source water protection easements are considered to be integral to a project. (The acquisition of land or easements has to be from a willing seller.) In addition to those costs identified in 567--Chapter 44, unallowable costs include the following:

- a. Cost of planning and applying for an SRF loan.
- b. Costs of service lines and in-house plumbing.
- c. Administrative costs of the loan recipient.
- d. Vehicles and tools.

44.12(3) The recipients shall maintain adequate records that document all costs associated with the project. Moneys from the SRF and those contributed by the recipient shall be accounted for separately. Accounting procedures shall conform with generally accepted government accounting standards as defined by the U.S. General Accounting Office (GAO) publication, "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions," dated May 1988. All records shall be preserved and made available to the department, the authority, the state auditor, and the Office of the Inspector General (OIG) of the EPA for at least three years from the date of the final loan payment.

44.12(4) The recipient shall provide access at all times for the department, the authority, the state auditor and the OIG to all project records and documents for inspection and audit purposes for a period of three years from the date of the final loan payment. The same access to the project site(s) shall be provided for inspection purposes.

44.12(5) Other federal and state statutes and programs may affect an SRF project. Loan agreements will include an assurance that a recipient will comply with all applicable federal and state requirements. Federal "cross-cutters" which will effect SRF projects include 13 environmental authorities, four economic and miscellaneous authorities, and nine social policy authorities. Each of these specific cross-cutters is delineated in Appendix 1.

44.12(6) The recipient must submit a construction drawdown schedule to the department prior to the award of contracts.

~~44.12(7) Loan agreements will be binding commitments based on estimated eligible costs~~ prior to construction. A final adjustment to a loan amount may be made upon completion of construction. Loans will be made to eligible recipients as soon as possible after money is available. The SRF will be managed such that contingency money is available in loans to allow for final adjustments in allowable costs as approved by the director. If eligible costs exceed the loan amount, the recipient may request an increase. The director in coordination with the authority will evaluate the request considering available money in the fund as well as the financial risk to determine the appropriate action, including renegotiation of the loan. Should costs be less than the loan amount, the loan shall be adjusted. Any project identified in the intended use plan for funding in a fiscal year that has not signed a binding commitment by August 31 of the fiscal year may be bypassed by projects of a lower priority that are in a state of readiness.

44.12(8) The director shall have the right to terminate any loan when terms of the agreement have been violated or project activities are not progressing in a satisfactory manner. Loans will be terminated if construction has not begun within one year of the execution of a loan agreement. The director in coordination with the authority will establish a repayment schedule for funds already loaned to the recipient. All terminations must be in writing.

567--44.13(455B) Construction phase and post construction phase requirements.

44.13(1) The loan recipient must notify the director of the estimated project completion date. A final inspection of the project may be performed by the director to verify that construction is complete (except for weather-related items) and conforms with the approved plans and specifications and all approved change orders.

44.13(2) The department shall undertake measures to discern adequate project performance as follows:

a. Three months after initiation of final operation of the project, the loan recipient must certify to the director that the project is operating as planned and designed. This certification must be made on a form provided by and approved by the department.

b. If the loan recipient is unable to certify the project is operating as planned and designed, the recipient must submit a corrective action report to the director for review and approval. The corrective action report must contain an analysis of the project's failure to operate as planned and designed; a discussion of the nature, scope, and cost of the action needed to correct the failure; and a schedule for completing the corrective work, acceptable to the department.

567--44.14(455B) Loan agreements and repayment policy for loans.

Loan agreements shall be entered into for each separate project, with the director and an authorized representative of the applicant signing the agreement. For each investment pool there shall be a single interest rate applicable to all loans made to recipients. Loans shall bear interest

for the entire life of the loan at a rate set by the authority. The interest rate will be based on the true interest cost method and may be rounded to the nearest one-hundredth of one percent. The interest rate shall be equal to A/B times $(C-X)$, to which there shall be added, but only if available funds from one or more SRF accounts relating to prior bond issues ("existing SRF funds") will be used to fund a portion of the loans made to the pool, D times E/B ; where A is the total amount of the loans being funded by proceeds of bonds issued for that pool; where B is the total of all loans to be made to that pool; where C is the true interest cost of the bonds issued for that pool; where D is the loan rate used for the original pool of loans from which bond issue the existing SRF funds were derived; where E is the amount of the existing SRF funds used for loans to the pool; and where X is the lesser of $(0.3 \text{ times } C)$ or 2.0 percent. If the existing SRF funds used for the pool are derived from more than one previous bond issue, then a factor of D times E/B shall be calculated for each bond issue from which the loan funds are derived and shall be added to the foregoing amount so as to produce a weighted average of interest for that pool. Notwithstanding the foregoing, the interest rate for a loan shall never exceed the yield on the bonds used to fund that loan. In the event the afore-mentioned bonds bear interest at a variable or floating rate of interest, C shall be equal to the rate set forth in the 20 G.O. Bond Buyer Index in effect on the date that the bonds are delivered.

Loans shall be for a period of twenty (20) years. Fees for servicing the loans may also be set by the authority. It is the intent of the department to charge a loan initiation fee of 1.0 percent of the amount of the loan, payable on the date the loan agreement is entered. It is the intent of the department to charge an annual loan servicing fee of 0.05 percent of the loan principal, due at the time of each annual loan repayment. The Department reserves the right to charge higher credit-based fees to non-governmental recipients (with the exception of non-profit rural water districts). Loan agreements shall include but shall not be limited to provisions whereby the recipient assures water system viability will be maintained, assures compliance with the Act will be maintained, and assures a certified operator in charge of the system in question will be maintained, all for the length of the loan agreement.

All principal and interest shall be repaid in accordance with the terms and conditions of the executed loan agreement. Repayments of principal shall begin no later than two years after receipt of the first loan disbursement. Borrowers must begin repayment of the loan (both principal and interest) no later than one year after completion of construction of the project. Principal payments will be made annually and interest payments will be made semiannually on a schedule determined by the director which is consistent with these rules and financing requirements applicable to the SRF. Repayment of the loan shall not exceed a 20-year repayment period as agreed upon in the loan agreement. Prepayment of the principal in whole or in part may be made, in accordance with the terms and conditions of the executed loan agreement.

The recipient shall use the proceeds of the SRF loan solely for the purpose of funding the project. Timely disbursement from the loan by the borrower shall be made to contractors.

All costs must be documented to the satisfaction of the director before proceeds can be disbursed. Records shall be maintained in accordance with subrule 44.12(3).

The recipient shall agree to comply with all applicable laws, rules, and regulations of the department, the authority, or other federal, state, and local jurisdictions concerning the financing, construction, operation, maintenance, and use of the water facilities.

567--44.15(455B) Sanctions.

Failure of the recipient to repay the loan in accordance with the schedule contained in the loan agreements will result in the loan being declared in default. Should a loan be declared in default, the director shall take legal action to collect amounts past due. Also, other state agencies will be notified and actions will be taken to preclude the recipient from receiving other grant or financial assistance until such time that all delinquent payments have been recovered.

Failure of a project to conform to approved plans and specifications or failure of a loan recipient to comply with the requirements of Chapters 40-44 (pertaining to drinking water supply systems) constitute grounds for the director to withhold authorization of loan disbursements to the financial assistance recipient. The loan recipient is then responsible for assuring that the identified problem in either the plans and specifications or the other relevant portion of the project is rectified such that disbursements may be resumed. Once an agreement for correcting the condition/s which led to the withholding of funds is reached between the director and the loan recipient, the director will recommend that the retained funds shall be released according to the provisions of the agreement.

567--44.16(455B) Disputes.

A person or entity who disagrees with the project rankings, department funding decisions, or the withholding of project funding pursuant to rules 44.7, 44.8, and 44.12 may request a formal review of the action. A request for review must be submitted in writing to the director by the person or entity within 45 days of the date of notification of the final decision made by the department or department staff. A decision by the director in a formal review case may be further appealed to the Environmental Protection Commission (EPC).

567--44.17(455B) Insufficient priority points. Reserved.

567--44.18(455B) Financial need. Reserved.

Appendix 1

Federal Cross-Cutters (Federal laws executive orders, and government-wide policies that apply by their own terms to projects and activities receiving Federal financial assistance, regardless of whether the statute authorizing the assistance makes them specifically applicable).

Environmental Authorities

- Archeological and Historic Preservation Act of 1974, Pub. L. 86-523, as amended.
- Clean Air Act, Pub. L. 84-159, as amended.
- Coastal Barrier Resources Act, Pub. L. 97-348
- Coastal Zone Management Act, Pub. L. 92-583, as amended
- Endangered Species Act, Pub. L. 93-205, as amended
- Environmental Justice, Executive Order 12898
- Floodplain Management, Executive Order 11988, as amended by Executive Order 12148
- Protection of Wetlands, Executive Order 11990
- Farmland Protection Policy Act, Pub. L. 97-98
- Fish and Wildlife Coordination Act, Pub. L. 85-624, as amended

- National Historic Preservation Act of 1966, Public Law 89-665, as amended
- Safe Drinking Water Act, Pub. L. 93-523, as amended
- Wild and Scenic Rivers Act, Pub. L. 90-542, as amended

Economic and Miscellaneous Authorities

- Demonstration Cities and Metropolitan Development Act of 1966, Pub. L. 89-754, as amended, Executive Order 12372
- ~~Procurement Prohibitions under Section 306 of the Clean Air Act and Section 508 of the~~ Clean Water Act, including Executive Order 11738, Administration of the Clean Air Act and the Federal Water Pollution Control Act with respect to Federal Contracts, Grants, or Loans
- Uniform Relocation and Real Property Acquisition Policies Act, Pub. L. 91-646, as amended
- Debarment and Suspension, Executive Order 12549

Social Policy Authorities

- Age Discrimination Act of 1975, Pub. L. 94-135
- Title VI of the Civil Rights Act of 1964, Pub. L. 88-352.
- Section 13 of the Federal Water Pollution Control Act Amendments of 1972, Pub. L. 92-500 (the Clean Water Act)
- Section 504 of the Rehabilitation Act of 1973, Pub L. 93-112 (including Executive Orders 11914 and 11250)
- The Drug-Free Workplace Act of 1988, Pub. L. 100-690 (applies only to the capitalization grant recipient)
- Equal Employment Opportunity, Executive Order 11246
- Women's and Minority Business Enterprise, Executive Orders 11625, 12138, and 12432
- Section 129 of the Small Business Administration Reauthorization and Amendment Act of 1988, Pub. L. 100-590
- Anti-Lobbying Provisions (40 CFR Part 30) [applies only to capitalization grant recipients]

Date

Larry J. Wilson, Director

Mr. Stokes explained the rules in detail.

Brief discussion followed.

Motion was made by Charlotte Mohr to approve Notice of Intended Action--Chapter 44, Drinking Water Revolving Fund. Seconded by Rozanne King. Motion carried unanimously.

APPROVED AS PRESENTED

NOTICE OF INTENDED ACTION--CHAPTER 50, 51, AND 52, AGRICULTURAL DRAINAGE WELLS

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

The Commission will be asked to approve the attached notice of intended action concerning agricultural drainage wells. These rules reflect the specific requirements of SF473 (e.g., closure of some wells, removal of surface intakes) as well as contain other requirements necessary to implement a comprehensive program to prevent contamination from agricultural drainage wells as directed by the 1987 Iowa Groundwater Protection Act.

ENVIRONMENTAL PROTECTION COMMISSION [567]
Notice of Intended Action

Pursuant to the authority of Iowa Code sections 455B.263, 455B.268, 455B.278, and 1997 Iowa Acts, Senate File 473 (SF 473), the Environmental Protection Commission gives notice of intended action to amend Chapter 50, "Scope of Division - Definitions - Forms - Rules of Practice", Chapter 51, "Water Permit or Registration - When Required", and Chapter 52, "Criteria and Conditions for Authorizing Withdrawal, Diversion and Storage of Water". The proposed rules would implement a program to address the groundwater pollution potential of existing agricultural drainage wells and reflect the requirements of both the 1987 Iowa Groundwater Protection Act and SF 473.

The Iowa Groundwater Protection Act charged the Department of Natural Resources and the Iowa Department of Agriculture and Land Stewardship (IDALS) with various responsibilities regarding the use of agricultural drainage wells. IDALS was to initiate a pilot research and demonstration project to identify the problems presented by the continued use or closure of agricultural drainage wells and to monitor possible contamination caused by the agricultural land management practices and chemical use relative to agricultural drainage wells. This research project has been completed although IDALS is continuing to conduct additional drainage well research. The research showed that the continued use of most agricultural drainage wells would not pose an undue threat to groundwater resources if certain management practices (e.g., closure of surface water inlets) were implemented. While closure of the wells is considered the preferred solution and should be required if viable alternatives to the continued use of the well exist, IDALS found that mandatory closure would create significant economic impacts for some owners of lands drained by agricultural drainage wells.

SF 473 mandates the closure of some wells and requires that others meet certain standards. These standards include removing surface water intakes and sealing drainage well cisterns to prevent surface water from entering the well. SF 473 also established an alternative drainage system program to provide cost share funds to landowners that would be affected by the mandatory drainage well closure requirement and charged IDALS with administering the financial assistance program.

The rules proposed in this notice echo the drainage well closure requirements of SF 473 and stipulate that closure be generally in accordance with the well closure requirements adopted for abandoned water supply wells (567-Chapter 39). In addition, agricultural drainage wells for

which there is a viable alternative (such an alternative drainage system authorized under SF 473) would have to be closed. The remaining agricultural drainage wells would be required to obtain a permit that would authorize the continued use of the drainage wells under the provisions of Iowa Code section 455B.268. This section of the Iowa Code requires a permit for the diversion of water or any material from the surface directly into an underground watercourse or basin. Under the rules as proposed, a permit authorizing the continued use of an agricultural drainage well would be issued subject to various conditions including closure of surface water intakes and sealing the cistern. The rules would also require that the owners of lands draining to the agricultural drainage well implement best management practices to minimize the potential for groundwater contamination.

Any interested person may provide written comments on these rule amendments prior to _____. Comments should be sent to Jack Riessen, Iowa Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa, 50319. Interested persons are also invited to present oral or written comments at public hearings which will be held:

Three hearings will be held: Humboldt, _____
Charles City _____, and Des Moines _____.

Copies of relevant rules maybe obtained from Sarah Detmer, Records Center, Iowa Department of Natural Resources, Wallace State Office Building, 9000 East Grand, Des Moines, Iowa 50319-0034.

These rules are intended to implement Iowa Code chapter 455B, division III, part 4, and 1997 Iowa Acts, SF 473

The following amendments are proposed.

Item 1. Amend rule 567--50.2(455B) by amending and adding the following definitions:

"Agricultural drainage well" is- means a vertical opening to an aquifer or permeable substratum, which is constructed by any means including but not limited to drilling, driving, digging, boring, augering, jetting, washing, or coring, and which has been drilled, driven, dug, bored, augered, jetted, washed, cored or otherwise constructed and which intercepts or receives or is capable of intercepting or receiving surface or subsurface drainage water from agricultural land directly or by a drainage system.

"Agricultural drainage well area" means an area of land where surface or subsurface water drains into an agricultural drainage well directly or through a drainage system connecting to the agricultural drainage well.

"Designated agricultural drainage well area" means an agricultural drainage well area in which there is located an anaerobic lagoon or earthen manure storage structure which requires a construction permit under 567-Chapter 65.

"Drainage system" means tile lines, laterals, surface inlets, or other improvements which are constructed to facilitate the drainage of land.

"Earthen storage structure" means an earthen cavity, either covered or uncovered, including but not limited to an anaerobic lagoon or earthen manure storage basin which is used to store manure, sewage, wastewater, industrial waste, or other waste as regulated by the department of natural resources, if stored in a liquid or semi-liquid state.

"Surface water" means water occurring on the surface of the ground.

"Surface drainage inlet" means a structure which conveys water from the surface of agricultural land directly to a tile drainage system or an agricultural drainage well without the water first percolating through the soil profile.

"Surface water intake" means an artificial opening to a drain tile which drains into an agricultural drainage well, if the artificial opening allows surface water to enter the drain tile without filtration through the soil profile.

Item 2. Amend subrule 50.3(1) as follows:

50.3(1) Application forms. The following application forms are currently in use:

Form 16: Application for Permit to Divert, Store, or Withdraw Water for Beneficial Use. 1/84. 542-3105.

Form 17: Application for Permit to Use Water for Irrigation. 1/84. 542-3106.

Form 18: Application for Permit to Store Water for Beneficial Use. 7/83. 542-3109.

Form 19: Application for Permit to Divert or Withdraw Water for Production and Processing of Sand, Gravel, or Rock Materials. 1/84. 542-3110.

Form 20: Registration of Minor Nonrecurring Use of Water. 7/84. 542-3112.

~~Form 542-0986: Registration of Agricultural Drainage Wells. 10/87.~~

Form 542-_____ - Application for Use of an Agricultural Drainage Well

Item 3. Amend 50.4 as follows:

567—50.4(17A, 455B) How to request a permit.

50.4(1) Form of application.

a. Application for approval of a new withdrawal, diversion or storage of water unrelated to the use of an agricultural drainage well. For withdrawals, diversions, or storage of water unrelated to the use of an agricultural drainage well, a request for a new as distinguished from modification or renewal of an existing permit shall be made on a form obtained from the department. An application form must be submitted by or on behalf of the owner, lessee, easement holder or option holder of the area where the water is to be withdrawn, diverted or

stored, and used. An application must be accompanied by a map portraying the points of withdrawal or diversion and storage, and the land on which water is to be used oriented as to section, township, and range. One application normally will be adequate for all uses on contiguous tracts of land. Tracts of land involved in the same operation separated only by roads or railroads will be deemed contiguous tracts.

b. Application for diversion of water related to the use of an agricultural drainage well. An application for the diversion of water and any other materials to an aquifer related to the use of an agricultural drainage well shall be made on a form obtained from the department and be submitted by or on behalf of such owners, lessees, easement holders, or option holders of all lands within the agricultural drainage well area. If the agricultural drainage well is part of a legally organized drainage district, the drainage district shall be a joint applicant. Applications for permits for diversions related to the use of agricultural drainage wells that existed prior to *(insert effective date of rules)* shall be made by July 1, 1998 with the exception of agricultural drainage wells that must be closed to comply with the provisions of 1997 Iowa Acts, Senate File 473. An application will not have to be filed for wells in a designated agricultural drainage well area which must be closed by December 31, 1999. In addition, the Department may grant up to an eighteen month delay in the application date for owners of agricultural drainage wells where it can be shown there is a reasonable expectation that the agricultural drainage well will be voluntarily closed by December 31, 1999.

cb. Application for modification or renewal of a permit. A request for renewal of a permit need not be submitted on an application form. A letter identifying the permittee and permit number and requesting renewal is sufficient. To request modification of a permit the letter must also clearly identify each modification desired and the reasons why each modification is needed.

de. Where to submit application. An application must be mailed or delivered to the Water Supply Section, Environmental Protection Division, Department of Natural Resources, East 9th and Grand, Des Moines, Iowa 50319.

50.4(2) Application fee. A nonrefundable fee in the form of a check or money order in the amount of \$25 payable to the department of natural resources must accompany an application for a new permit to withdraw or divert water. The same fee must accompany an application for modification or renewal of a permit to withdraw or divert water. No fee is charged for an application to store water or an application for registration of a minor nonrecurring use of water. No fee is charged for an application for a permit to divert water to an aquifer related to the use of an agricultural drainage well.

50.4(3) Supporting information required for complete application. An application shall not be considered complete until the fee specified in this rule and all supporting information requested under 50.6(17A, 455B) have been submitted by the applicant or agents of the applicant.

Item 4. Amend subrule 50.6(4) as follows:

50.6(4) Application for permit to divert water into an aquifer not related to the use of an agricultural drainage well. An applicant for a permit to divert water or any other material from the surface into an aquifer not related to the use of an agricultural drainage well shall submit information showing that the requested diversion will not pollute the aquifer.

Item 5. Amend rule 567--50.6(455B) by adding the following subrule:

50.6(7) *Application for permit to divert water into an aquifer related to the use of an agricultural drainage well.* An applicant for a permit to divert water or any other material into an aquifer by means of an agricultural drainage well shall submit the following information. The locations of the features as listed below shall be shown on a map drawn to scale submitted with the application.

a. Location of the agricultural drainage well to at least the nearest quarter-quarter section, township and range.

b. Diameter and depth of the agricultural drainage well. The depth of well shall be determined by field measurements if not known.

c. Description and ownership of the lands which are drained by the agricultural drainage well and the associated drainage system.

d. Location of tiles which drain to the agricultural drainage well, if known, and the location of any existing surface water intakes.

e. The location and description of any earthen storage structures within the agricultural drainage well area.

f. Information regarding any known connections between the agricultural drainage well or its drainage system and wastewater disposal or storage systems such as septic tanks and the location of such connections.

g. The nature and extent of any agreements between the well owner and adjacent landowners who have lands which are drained by the agricultural drainage well and associated tile drainage system.

h. Any available information regarding the economic and physical feasibility of closing the agricultural drainage well.

Item 6. Amend subrule 50.7(2) as follows:

50.7(2) *Summary report of application review.* Before an initial decision is issued on an application, personnel assigned to review an application shall prepare a summary report which shall state whether the withdrawal, diversion, or use of water as described in the complete application conforms to relevant criteria. The report shall identify the information used to determine the potential for the a proposed use of water to adversely affect other water users. For an application to withdraw groundwater, the report shall describe the effects on water levels anticipated to occur from the proposed use; indicate if verified well interference has been found; and provide options for resolving any verified well interference in accordance with chapter 54 of the department's rules.

Item 7. Amend subrule 50.7(4) as follows:

50.7(4) *Notice to the applicant that proposed withdrawal, diversion or use of water does not conform to criteria.* If the application review discloses that the proposed withdrawal, diversion or use of water violates one or more criteria and the application should therefore be disapproved, or approved only subject to special conditions to which the applicant has not agreed, the department shall notify the applicant and, when practical, suggest appropriate project

modifications. The department shall offer the applicant an opportunity to submit comments before an initial decision is made.

Item 8. Amend rule 567--51.3(455B) as follows:

567--51.3(455B) Diversion from surface into aquifer. A permit is required for diversion of water or any other material from the surface directly into any aquifer, including diversion by means of an agricultural drainage well. ~~Diversion by tile or ditch into a sinkhole or quarry excavated in carbonate rock is presumed to be a diversion from the surface directly into an aquifer in the absence of convincing evidence to the contrary.~~

Item 9. Amend 567-Chapter 52 by adding rule 52.21.

567-52.21 Permits to divert water to an agricultural drainage well

52.21(1) Approval criteria. An application for a permit to divert water or other material to an aquifer by means of an agricultural drainage shall not be approved if: i) the agricultural drainage well is located within a designated agricultural drainage well area or ii) the drainage well is to be constructed after (*insert effective date of rule*). An initial permit for the diversion of water or any material to an aquifer by means of an agricultural drainage well shall be based on a finding that the following criteria are satisfied. Renewal of such a permit shall be made only upon a finding that such owners, lessees, easement holders, or option holders are in compliance with the conditions of the initial permit or any permit issued thereafter.

- a. The application for the permit has been submitted by or on behalf of all owners, lessees, easement holders, or option holders of all lands which are drained by the agricultural drainage well.
- b. There is reasonable assurance that the applicant(s) can minimize the contamination potential to the aquifer through closure of surface water intakes, elimination of any septic system connections, and other appropriate management practices including nutrient and pesticide management.
- c. There are no economically and physically viable alternatives to the use of the agricultural drainage well. The Department will consult with the Division of Soil Conservation, Department of Agricultural and Land Stewardship, and other parties with drainage expertise as necessary to determine if viable alternatives exist. Alternative drainage systems constructed under the provisions of the alternative drainage system assistance program administered by the Division of Soil Conservation will be considered as a viable alternative to the use of the drainage well.

52.21(2) Approval conditions. Permits granted for the diversion of water or any material to an aquifer by means of an agricultural drainage well shall be subject to the following conditions as appropriate.

- a. *Surface water intakes.* All surface water intakes shall be removed by December 31, 1998. Additional tile lines may be added to compensate for removal of surface water intakes provided the replacement tile does not increase the size of the agricultural drainage well area. Replacement tiles shall generally conform with the Natural Resources Conservation Services Tile Intake Replacement Interim Standard 980.

- b. *Cisterns*. Cisterns shall be sealed or otherwise modified as necessary by December 31, 1998 to prevent direct entry of surface water. Compliance with the Natural Resources Conservation Services Wellhead Protection Interim Standard 981 will be considered as complying with this condition. Alternatives to the Interim Standard may be allowed with Department approval.
- c. *Access/ventilation*. The agricultural drainage well or its cistern shall be provided with a locked cover to prevent unauthorized access. The agricultural drainage well and the related drainage system shall be adequately ventilated in a manner that does not allow surface water to enter the agricultural drainage well.
-
- d. *Repair and maintenance*. The agricultural drainage well and the associated drainage system may be repaired and maintained as needed to maintain drainage efficiency. The drainage well and associated tile drainage system shall be maintained in a condition so as to prevent surface water which has not filtered through the soil profile from entering the drainage well.
- e. *Modifications of drainage well*. The agricultural drainage well shall not be modified without Department approval. The related drainage system may be modified without Department approval providing the modifications do not enlarge the agricultural drainage well area. Construction of new surface water intakes is not allowed.
- f. *Closure*. If the permittee discontinues use of the agricultural drainage well, the department shall be notified and closure shall be made in accordance with 567 - Chapter 39, IAC or by an alternative method approved by the department. The permit shall be revoked upon submission of proof that the drainage well was properly closed.
- g. *Modification or cancellation of permit*. As provided in 567-52.7(455B), the Department may modify or cancel the permit or require the permittee to take other actions to protect the public health and safety, to protect the public interest in lands and waters, or to prevent any manner of substantial injury to persons or property.
- h. *Waste systems*. Effluent from wastewater treatment or storage systems, including on-site wastewater treatment and disposal systems such as septic systems, shall not be allowed to directly enter the agricultural drainage well or associated tile drainage system. Wastes from animal feedlots shall not be discharged across lands which are drained by the agricultural drainage well or be allowed to enter the drainage well or associated drainage system.
- i. *Nitrogen management*. Effective with the year 2000 crop season, application of nitrogen, including the application of animal manure, on lands drained by the agricultural drainage well is prohibited from September 1 through March 31. The amount of nitrogen applied on such lands shall otherwise be in accordance with the recommendations of the Iowa State University Extension Service.
- j. *Application of liquid animal wastes*. Application of liquid animal waste to lands drained by the agricultural drainage well shall be done in a manner that will not result in a discharge of the waste to the drainage well or associated drainage system without filtration through the soil profile.
- k. *Application of pesticides*. The application of pesticides on lands within the agricultural drainage well area shall be in accordance with the provisions of Iowa Code chapter 206 and rules adopted pursuant to chapter 206.
- l. *Alternatives to the use of the agricultural drainage well*. Prior to reissuance of a permit for the continued use of an agricultural drainage well, the permittee(s) shall conduct an engineering study of the physical and economic feasibility of alternatives to the continued use of the agricultural drainage well. The study shall be performed by a professional engineer licensed in

the State of Iowa or the Natural Resources Conservation Service. The results of the study shall be submitted to the department at least one year prior a request to reissue a permit.

52.21(3) Closure of existing agricultural drainage wells.

a. Agricultural drainage wells within a designated agricultural drainage well area. A permit shall not be granted for the diversion of water or other material into an aquifer by means of an agricultural drainage well if the drainage well is located within a designated agricultural drainage well area. All existing agricultural drainage wells within a designated agricultural drainage well area shall be closed by December 31, 1999.. Closure shall be in accordance with 567 - Chapter 39, Requirements for Properly Plugging Abandoned Wells, or by an alternative method approved by the Department. Cisterns shall be filled in or removed and filled in with earth or other suitable material and the tile lines associated with the drainage well shall be removed for a distance of 10 feet around the wellhead. The owner of the land on which the agricultural drainage well is located shall provide the department with notice that the well has been closed in accordance with the requirements of this paragraph.

b. Other agricultural drainage wells - Existing agricultural drainage wells that have not been authorized by permit by December 31, 1999 shall be closed by that date unless the Department has granted a waiver to the closure requirements. The closure procedures shall be as specified in 52.21(3)a.

Larry J. Wilson, Director

Date

Mr. Stokes explained the rules in detail.

Motion was made by Rozanne King to approve Notice of Intended Action--Chapters 50, 51, and 52, Agricultural Drainage Wells. Seconded by Terrance Townsend.

Discussion followed regarding who would be impacted by the rules; costs involved; whether funds would be available for those who need it; who would need permits; and the dates of September - March prohibiting application of nitrogen and animal manure.

Vote on the motion carried unanimously.

APPROVED AS PRESENTED

Randal Giannetto arrived at this point in the meeting (11:10 a.m.)

REFERRALS TO THE ATTORNEY GENERAL

Mike Murphy, Bureau Chief, Compliance and Enforcement Bureau, presented the following item.

The Director requests referral of the following to the Attorney General for appropriate legal action. Litigation reports have been provided to the Commissioners and are confidential pursuant to Iowa Code section 22.7(4). The parties have been informed of this action and may appear to discuss this matter. If the Commission needs to discuss strategy with counsel on any matter where the disclosure of matters discussed would be likely to prejudice or disadvantage its position in litigation, the Commission may go into closed session pursuant to Iowa Code section 21.5(1)(c).

- a. A.J. DeCoster (Wright County) - water quality

A. J. DeCoster

Mr. Murphy noted that he distributed copies of a letter from counsel for Mr. DeCoster and related that they will not be present today but wanted the Commission to have the letter. He stated that this matter involves entry of manure into a tile line in April 1997 from land application at their Nursery #4 facility in Wright County. He related that during the investigation it was documented that contaminated water was going from a tile line into an ag drainage well. He stated that due to the history of this facility operator/owner, and because of the magnitude of the violations in the sense that it did get into an ag drainage well, staff feel referral is appropriate.

Rozanne King asked if the tile that was draining into the the well has been closed.

Mr. Murphy stated that staff has notified the county that they are to address that particular instance and any others that may exist in the county. He related that the tile that was connected has been disconnected and the ag drainage well is now closed.

Rita Venner asked if the tile was underneath the ground and if the land was some on which they should not have been applying.

Mr. Murphy stated that the tile was sub-surface and the manure infiltrated into the tile system. He noted that the land was addressed in their Manure Management Plan and they did not over apply in the sense that the nitrogen rates appeared to be within acceptable limits. He added that staff opinion is that it was not good practice for application in the manner it was done considering the amount of materials (in a hydraulic sense) and time of year when the ground was thawing.

Kathryn Murphy asked about the statement on Page 3 of William Smith's letter regarding the exclusion of application issues from items that could be referred.

Mr. Murphy stated that it is an overstatement, but there is a statute that says if land application is done in compliance with our rules and guidelines, it is deemed compliance. He related that Mr. Smith is correct with his second statement that the department does not agree it is a total absolution.

Motion was made by Charlotte Mohr for referral to the Attorney General's Office. Seconded by Dean McWilliams. Motion carried unanimously.

REFERRED

**PROPOSED CONTESTED CASE DECISION--ORGANIC TECHNOLOGIES
CORPORATION**

Mike Murphy, Bureau Chief, Compliance and Enforcement Bureau, presented the following item.

On November 15, 1996, the department issued Administrative Order No. 96-SW-19 and 96-WW-45 to Organic Technology Corporation, Tim Danley, and Ken Renfrow (OTC). That action required proper operation and maintenance of the composting facilities, compliance with a schedule for closing the facilities, and assessed a penalty of \$10,000. That action also notified OTC of the department's intent to revoke the permit, and denied a permit application for a new site. In addition, the department subsequently denied an application to renew the existing permit. Those actions were appealed by OTC, and the matter proceeded to administrative hearing on May 6, 7, 15, and 28, 1997. The Administrative Law Judge issued the attached Proposed Findings of Fact, Conclusions of Law, and Order on August 1, 1997. The decision affirms the department's Order and permit revocation and renewal denial, and reverses the second permit denial.

Either party may appeal the Proposed Decision to the Commission. In the absence of an appeal, the Commission may decide on its own motion to review the Proposed Decision. If there is no appeal or review of the Proposed Decision, it automatically becomes the final decision of the Commission.

Mr. Murphy briefed the Commission on the history of this case.

The Commission took no action; this has effect of upholding the ALJ decision in the absence of an appeal.

ALJ DECISION UPHELD

GROUNDWATER HYDROLOGY AND LAGOONS REPORT

Allan Stokes introduced Don Koch, Bureau Chief, Geological Survey Bureau, and noted that he will make the presentation on groundwater hydrology and lagoons.

Mr. Koch stated that there have been a number of problems recently with animal confinement operation sites. He related that there has been difficulty in assessing the overall problem that some of the facilities pose, but some things have been very obvious, those being sites where lagoons were constructed with the floor of the cell being below the top of the water table. There has been a number of sites with severe erosion on the walls of the lagoon cells whether or not, in some cases, there had been a compacted clay liner put in place. Mr. Koch stated that some of these lagoons were constructed in very sandy materials where the water table beaten high has influent pressure and has caused sloughing of the walls at some sites. He related that all of this has been well documented by field observations and photographs taken by GSB staff. Mr. Koch discussed the proposed, upcoming rules on animal livestock confinements and expanded on the differences as proposed by the DNR and by AACO.

Discussion followed regarding various aspects of the rules.

INFORMATIONAL ONLY

GENERAL DISCUSSION

Charlotte Mohr asked if the public hearing dates were set for the AACO rules.

Mr. Stokes distributed a list showing the following dates for those hearings:

September 2, 1997, at 7:00 p.m. at the Oelwein Community Center in Oelwein, Iowa
September 3, 1997, at 7:00 p.m. at the Super 8 Motel in Washington, Iowa
September 4, 1997, at 7:00 p.m. at the American State Bank in Osceola, Iowa
September 8, 1997, at 7:00 p.m. at the Cherokee Community Center in Cherokee, Iowa
September 9, 1997, at 7:00 p.m. at the First National Bank in Hampton, Iowa
September 11, 1997, at 7:00 p.m. at the Elks Club in Atlantic, Iowa

Rozanne King mentioned that she requested an update on the Rathbun Rural Water Pilot Project and asked about the status of same.

Mr. Stokes stated that he plans to give a presentation on that project at next month's meeting.

Charlotte Mohr stated that she has received phone calls asking how DeCoster can continue to add on to his operations since he under enforcement action.

Mr. Stokes stated that most of his facilities were already permitted or did not need a permit before he was under enforcement action. While he is under this action he cannot get a permit to build a new facility. He noted that some of the work DeCoster has done is on some prior existing facilities and the department would categorize them as remedial action, such as where

lagoons were found below the groundwater base. A couple of instances were where the department approved a slurry wall as a remedial type of action on those facilities.

NEXT MEETING DATES

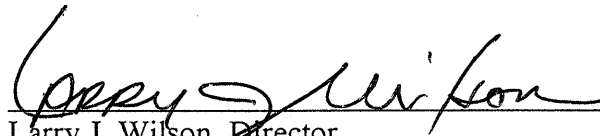
September 15, 1997

October 20, 1997

November 17, 1997

ADJOURNMENT

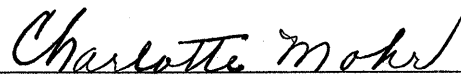
With no further business to come before the Environmental Protection Commission, Chairman Ehm adjourned the meeting at noon, Monday, August 18, 1997.



Larry J. Wilson, Director



William Ehm, Chair



Charlotte Mohr, Secretary

INDEX

A

Adjournment, 61
 Adoption of Agenda, 1
 Agircultural Drainage Wells--Chapter 50,
 51, and 52
 Notice of Intended Action, 49
 Approval of Minutes, 1

B

Budget Request, Prliminary
 FY 99/2000, 2

C

Call to Order, 1
 Commissioners Absent, 1
 Commissioners Present, 1
 Contested Case Decision, Proposed
 Organic Technologies Corporation, 59

D

DeCoster, A.J.
 Referrals to the Attorney General, 58
 Director's Report, 2
 Drinking Water Revolving Fund--Chapter
 44
 Notice of Intended Action, 34

F

Final Rule
 Chapter 218, Waste Tire Stockpile
 Abatement Program, 9

G

Groundwater Hydrology and Lagoons
 Report, 59

L

Landfill Alternatives Financial Assistance
 Program

Applications Selected, 3

M

Monthly Reports, 18

N

Notice of Intended Action
 Chapter 44, Drinking Water Revolving
 Fund, 34
 Chapter 50, 51, and 52, Agricultural
 Drainage Wells, 49

O

Organic Technologies Corporation
 Proposed Contested Case Decision, 59

P

Public Participation, 17
 Thiry, Regina (Washburn Sewer
 Project), 17

R

Referrals to the Attorney General
 DeCoster, A. J., 58

T

Thiry, Regina - Public Participation
 (Washburn Sewer Project), 17

W

Waste Tire Stockpile Abatement Program--
 Chapter 218
 Final Rule, 9